

## ***JUNE 6, 2006 AGENDA REPORTS***

### **Agenda Item No. 6a.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0552

TO: Mayor and City Council Members

SUBJECT: Petition to construct Paving, Sanitary Sewer and Water Improvements in Legacy Park Wilson Estates 3rd Addition (south of 21st, west of Webb) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Petition.

Background: The Petition has been signed by one owner representing 100% of the improvement district.

Analysis: The project will provide paving, sanitary sewer and water improvements within a residential development located south of 21st, west of Webb.

Financial Considerations: The Petition totals \$321,000. The funding source is special assessments.

Goal Impact: This project addresses the Ensure Efficient Infrastructure goal by providing for the construction of paving, sanitary sewer and water improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

Legal Considerations: State Statutes provide that a Petition is valid if signed by a majority of resident property owners or by owners of the majority of property in the improvement district.

Recommendation/Action: It is recommended that the City Council approve the Petition, adopt the Resolution and authorize the necessary signatures.

## **Agenda Item No. 6b.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0553

TO: Mayor and City Council Members

SUBJECT: Petition to construct a Water Distribution System in Casa Bella Addition  
(north of Pawnee, west of 127th St. East) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the new Petition.

Background: On December 20, 2005, the City Council approved a Petition to construct a water distribution system in Casa Bella Addition. An attempt to award a contract within the budget set by the Petition was not successful. The developer has submitted a new Petition with an increased budget. The signature on the new Petition represents 100% of the improvement district.

Analysis: The project will serve a new residential development located north of Pawnee, west of 127th St. East.

Financial Considerations: The existing Petition totals \$99,000 with \$83,150 assessed to the improvement district and \$15,850 paid by the Water Utility. The new Petition totals \$162,000 with \$107,000 assessed to the improvement district and \$55,000 paid by the Water Utility. The Utility share is for the cost of over sizing the pipe to serve future development outside of the improvement district.

Goal Impact: This project will address the Ensure Efficient Infrastructure goal by providing municipal water service necessary for a new residential development. It will also address the Promote Economic Vitality and Affordable Living goal by facilitating new residential development that is vital to Wichita's continued economic growth.

Legal Considerations: State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Recommendations/Actions: It is recommended that the City Council approve the new Petition, adopt the Resolution and authorize the necessary signatures.

**Agenda Item No. 10a.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0554

TO: Mayor and City Council

SUBJECT: Equus Beds Aquifer Storage and Recovery Project (Phase I) -  
Supplemental Agreement

INITIATED BY: Water & Sewer Department

AGENDA: Consent

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Recommendations: Approve Supplemental Agreement No. 12.

Background: On January 8, 2002, the City Council approved a Contract with Burns & McDonnell Engineering Co. to provide engineering and design services for Phase I of the Equus Beds Aquifer Storage and Recovery (ASR) Project for \$798,532.

Nov. 5, 2002, City Council approved Supplemental Agreement No. 1 for additional archeological services necessary to evaluate the impact of the discovery of a prehistoric artifact.

March 25, 2003, City Council approved Supplemental Agreement No. 2 for the services necessary to run the computer model to evaluate the results of pilot work on alternate water treatment technologies.

April 1, 2003, City Council approved Supplemental Agreement No. 3 to allow drilling of additional test holes at the proposed sites for recharge basins.

May 25, 2004, City Council approved Supplemental Agreement No. 4 to drill two additional test wells at alternative sites for diversions wells that appeared to have better water quality.

August 31, 2004, City Council approved a Memorandum of Understanding with the Equus Beds Groundwater Management District (GMD) that led to the unanimous recommendation of the GMD for approval of the City's applications for water rights for Phase I of the ASR project.

March 8, 2005, City Council approved Supplemental Agreement No. 5 that included services to conduct a shallow aquifer test and other services associated with obtaining appropriations from the state.

July 12, 2005, City Council Approved Supplemental Agreement No. 6 that included services to conduct a full scale aquifer test at one of the proposed diversion well sites, and Supplemental Agreement No. 7 that included engineering services to upgrade the electrical system in the Equus Beds Wellfield.

November 1, 2005, City Council approved Supplemental Agreement No. 8 to build a full scale well and perform pump tests at a diversion site with an appropriation from the state.

December 6, 2005, City Council approved Supplemental Agreement No. 9 to design a river intake and a powdered activated carbon feed facility.

On February 28, 2006, City Council approved Supplemental Agreement No. 10 to provide for the construction and testing of two diversion wells and No. 11 for construction related services, excluding on-site inspection services.

**Analysis:** This phase of the Equus Beds Aquifer Storage and Recovery Project includes a Design/Build project to construct a 7 million gallon-per-day surface water treatment plant. As design work was being done, it was recognized that significant savings in the construction of the treatment plant could be achieved if the recharge facilities using surface water could be separated from the facilities using diversion well water. The savings would be realized through the use of an additional water line. Supplemental Agreement No. 12 with Burns & McDonnell Engineering is for the additional design services for the water line, as well as minor design changes required for the project.

**Financial Considerations:** The cost for the additional engineering services associated with Supplemental Agreement No. 12 will not exceed \$60,644. The addition of the water line would add approximately \$1 million to the cost of the project, but reduce the cost of the surface water treatment plant project by approximately \$3.5 million. Funding for this project is included in CIP W-549, Water Supply Plan Phase III, which has available funding of over \$25 million in 2006.

**Goal Impact:** This will ensure efficient infrastructure by providing reliable, compliant and secure utilities.

**Legal Considerations:** The Law Department has reviewed and approved the Supplemental Agreement as to form.

**Recommendation/Actions:** It is recommended that the City Council approve the Supplemental Agreement and authorize the necessary signatures.

## **Agenda Item No. 10b.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0555

TO: Mayor and City Council

SUBJECT: Easement Encroachment Agreement (District II)

INITIATED BY: Water & Sewer Department

AGENDA: Consent

Recommendation: Approve the Easement Encroachment Agreement.

Analysis: The Agreement allows Sawmill Creek LLC, Evertt Long, Manager; Harry J. & Sondra D. George, and Jon D. & Cindy C. Darnell to occupy and construct, improvements on, over, and across a platted 22 foot utility easement described as the south 22-feet of Lot 1, lot 8, Lot 9, Lot 10, Block 4, Sawmill Creek Addition and the southeast 22 feet of Lots 11 through 21, Block 4, Sawmill Creek Addition, hereinafter referred to as Tract "A" and waives all rights of action in law arising out of the encroachment into the easement. The improvement is a concrete masonry wall in above said easement. The Agreement allows the City to be held harmless from any and all claims resulting from leaking, cave-in or failure of said sewer line lying within Tract "A" and from claims resulting from replacement or upgrade of lines, manholes, and/or other Department property in the easement.

Financial Considerations: There are no financial considerations.

Legal Considerations: The Law Department has reviewed the Easement Encroachment Agreement and approved it as to form.

Goal Impact: This Easement Encroachment Agreement is necessary to ensure efficient sanitary sewer infrastructure and to provide reliable, compliant and secure sanitary sewer service to all City customers.

Recommendations/Actions: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

## **Agenda Item No. 10c.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0556

TO: Mayor and City Council

SUBJECT: Agreement to Respread Assessments: The Moorings South Addition (west of Meridian, north of K-96) (District VI)

INITIATED BY: Department of Finance

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The landowner, CBB Northlakes, LLC, platted The Moorings South Addition and has submitted an Agreement to respread special assessments within the Addition.

Analysis: The land was originally included in an improvement district for a public sanitary sewer improvement project. The purpose of the Agreement is to respread special assessments to more fairly distribute the cost of the improvement.

Financial Considerations: There is no cost to the City.

Goal Impact: The City of Wichita aggressively uses special assessments to lower the cost of residential developments. In doing so, the City's program satisfies the City Council's goal to promote Economic Vitality and Affordable Living. The program supports this goal through partnering with stakeholders in the development community and sustains affordable living by lowering the costs of home ownership.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

## **Agenda Item No. 10d.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0557

TO: Mayor and City Council

SUBJECT: Agreement to Respread Assessments: Reed Commercial, Reed's Cove 3rd and 4th Additions (south of 21st Street North, east of 127th Street East) (District II)

INITIATED BY: Department of Finance

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The landowners, 21/127, L.C.; Nies Homes, Inc.; Ritchie Building Company, Inc.; Ink Residential Group, LLC; Robl Construction, Inc.; and Ann M. Ross, platted Reed's Cove 4th Addition and have submitted an Agreement to respread special assessments within Reed Commercial, Reed's Cove 3rd and 4th Additions.

Analysis: The land was originally included in a number of improvement districts for several public improvement projects. The purpose of the Agreement is to respread special assessments within the improvement district, therefore, more fairly distributing the cost of the improvements.

Financial Considerations: There is no cost to the City.

Goal Impact: The City of Wichita aggressively uses special assessments to lower the cost of residential developments. In doing so, the City's program satisfies the City Council's goal to promote Economic Vitality and Affordable Living. The program supports this goal through partnering with stakeholders in the development community and sustains affordable living by lowering the costs of home ownership.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

## **Agenda Item No. 10e.**

CITY OF WICHITA  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0558

TO: Mayor and City Council Members

SUBJECT: Consent Agreement Between the City of Wichita, the Boys and Girls Club of South Central Kansas, Inc. and Intrust Bank (District I)

INITIATED BY: Office of Property Management

AGENDA: Consent

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Recommendation: Approve the agreement.

Background: On June 21, 2005, the City Council approved leasing a portion of the former Heartspring site at 2400 North Jardine to the Boys and Girls Club of South Central Kansas ("Boys and Girls Club"). The Boys and Girls Club plans to build a facility to replace their existing facility at 21st Street North and Grove. The facility will provide a wide variety of services and programs for at risk youth. The Boys and Girls Club is currently securing funding for the project.

Analysis: Much of the funding that the Boys and Girls Club has raised for the project consists of donations that will be paid over several years. To allow timely construction of the facility, the Boys and Girls Club is seeking financing from INTRUST Bank, N.A. ("INTRUST") in anticipation of the donor pledges expected to be collected. INTRUST requires security for the proposed loan, in the form of a leasehold mortgage on the Boy's and Girls Club's interest in the project. The lease between the City and the Boys and Girls Club prohibits such a mortgage without the City's consent, and also provides that if the proposed facility ceases to be used for the purposes discussed in the lease, the land and the improvements will revert to the City. These lease terms preclude INTRUST from securing the loan to the Boys and Girls Club with the facility, unless the City is willing to sign a consent agreement to allow the leasehold mortgage and provide INTRUST with protection against reversion of the building to the City. A consent agreement has been drafted between the City, the Boys and Girls Club and INTRUST whereby the City's right to terminate the leasehold and take the building will be subordinated to Intrust's interest. This means that instead of being able to take back the property, including the building, if the youth facility use is discontinued, the City would have to let INTRUST market the remaining term of the leasehold to a buyer that would use the property for the type of recreational youth facility contemplated by the lease. The consent agreement also contemplates that after three years of unsuccessful marketing attempts, the City would reasonably consider approving a sale of the leasehold to a buyer with a different use, so long as such use is still consistent with the existing platting and the surrounding uses in the Planned Unit Development. At the time of any sale of the leasehold interest by INTRUST, sale proceeds allocable to the land would be paid to the City, and proceeds allocable to the buildings financed by INTRUST would be paid to



INTRUST to the extent necessary to fully satisfy its mortgage, with any excess proceeds going to the City.

Financial Considerations: There is no immediate financial impact associated with approving the consent agreement.

Goal Impact: Support a dynamic core area and vibrant neighborhoods. The proposed facility will increase neighborhood vibrancy by providing multiple services for all youth in the area.

Legal Considerations: The Law Department has approved the consent agreement as to form.

Recommendation/Action: It is recommended that the City Council approve the agreement and authorize all necessary signatures.

Attachment: Consent Agreement

THIS CONSENT AGREEMENT (the "Consent Agreement") is made by and between the City of Wichita, Kansas (the "Lessor"), whose address is 455 North Main Street, Wichita, KS 67202, the Boys and Girls Clubs of South Central Kansas, Inc. (the "Lessee"), whose address is 2408 East 21st Street North, Wichita, KS 67214, and INTRUST Bank, N.A. (the "Lender"), whose address is 105 North Main Street, Wichita, KS 67202

I. RECITALS:

A. Lessor is the owner of the following described real estate:

A portion of the Logopedics Addition to the City of Wichita, Sedgwick County, Kansas, more specifically described as Lot 3, Block 1, together with the South 220 feet of Lot 4, 21st Street Kids and Family Empowerment, an Addition to Wichita, Sedgwick County, Kansas (the "Real Estate").

B. Lessor has leased the Real Estate to Lessee for a term of ninety-nine (99) years (the "Term") under that Lease Agreement dated June 21, 2005, and attached hereto (the "Lease"), subject to certain restrictions on use set forth in Section 3 of the Lease (the "Use Restrictions").

C. Lessee intends to construct a building and other improvements upon the Real Estate and has requested that Lender extend to it a revolving line of credit in an amount not to exceed \$4,500,000.00 to fund such construction (the "Loan").

D. As collateral for the Loan, Lessee wishes to collaterally assign, mortgage and encumber in favor of Lender, all its right, title and interest in the Real Estate arising under the Lease and all improvements placed upon the Real Estate by Lessee during the term of the Lease, pursuant to a Mortgage instrument in favor of Lender substantially in the form of Attachment "A" hereto (the "Mortgage").

E. Lessee is restricted from assigning the Lease without the consent of Lessor. In addition, Section 8 of the Lease provides for forfeiture of the improvements placed upon the Real Estate to Lessor upon certain conditions ("Lessor's Forfeiture Rights").

F. Lender has required this Agreement as a condition of extending the requested Loan to Lessee.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby certify, represent and agree as follows:

## II. AGREEMENTS.

A. Consent to Leasehold Mortgage and Collateral Assignment of Lease. Lessor hereby consents to Lessee's assignment of its interest under the subject Lease to Lender as collateral for the Loan to the granting by Lessee, and the filing by Lender, of the Mortgage encumbering the leasehold interest of Lessee in the Real Estate and all buildings or other improvements placed upon the Real Estate by Lessee. Lessor further agrees that neither the grant nor the enforcement of the Mortgage shall form the basis for Lessor declaring a default under the Lease.

B. Covenants Regarding Lease. Lessor and Lessee further agree and certify that:

1. The Lease is in full force and effect and sets forth the entire agreement between Lessor and Lessee concerning the Real Estate.
2. The Lease has not been amended, supplemented or otherwise modified except as specifically described herein: \_\_\_\_\_.
3. Lessor is the current record owner of the Real Estate and the current owner of all of the Lessor's interest under the Lease.
4. Lessee is the present and only Lessee under the Lease.
5. Neither Lessor nor Lessee has commenced any action or has given or received any notice for the purpose of terminating the Lease.
6. Neither Lessor nor Lessee is in default under any of the terms of the Lease. In addition, to the best of Lessor's knowledge, no event has occurred that with notice, the passage of time, or both, would result in an event of default by either Lessor or Lessee.

C. Other Agreements. Lessor and Lessee hereby agree with Lender that, during all such times as Lender holds its Mortgage:

1. Lessor and Lessee will not consent to any modification, termination or cancellation of the Lease or surrender of any portion of the Real Estate, unless the Lessee is in default under the Lease and the Lender has failed or declined to exercise its right to cure as outlined in the following section, or unless Lender first consents thereto in writing.
2. Lessor will notify Lender in writing concurrently with any notice given to Lessee of any breach or default on the part of Lessee under the Lease, and Lessor agrees that Lender shall have the right to cure any breach or default specified in such notice within the time periods set forth below. Lessor will not declare a default of the Lease if Lender cures such default within thirty (30) days from and after expiration of the time period provided in the Lease for the cure thereof by Lessee; provided, however, that if such default cannot with diligence be cured by Lender within such thirty (30) day period, the commencement of action by Lender within such thirty (30) day period to remedy the same shall be deemed sufficient so long as Lender pursues such cure with diligence.

3. Lessor acknowledges that the Lender will hold a mortgage upon Lessee's right, title and interest in and to the Real Estate arising under the Lease, together with all existing or subsequently erected or affixed buildings, improvements and fixtures, and other related property described in the Mortgage granted by Lessee in favor of Lender ("Lender's Collateral"). Lessor acknowledges and agrees that Lessor's Forfeiture Rights under the Lease, shall be subject to and subordinate to Lender's interest in Lender's Collateral under the Mortgage. In the event of a sale of the Lessee's interest in the Real Estate and Lender's Collateral prior to satisfaction and release of Lender's Mortgage, proceeds allocable to the Real Estate will be paid to the City, and proceeds allocable to improvements will be paid first to Lender, in satisfaction of its Mortgage, with any excess proceeds going to the City. In the event that the Lender is unable, for a period of three years following a default under the Mortgage, to make a disposition of Lender's Collateral consistent with the Use Restrictions, the Lessor agrees to reasonably consider other possible dispositions consistent with existing platting and the other uses in the Planned Unit Development.

4. If the Lease shall terminate prior to the expiration of the Term and if, on such date of termination, Lender shall continue to hold its Mortgage, Lessor agrees, upon the request of Lender, to enter into a new lease for the Real Estate with Lender, or its designee or nominee, for the remainder of the Term, effective as of the date of such termination, at the same rent and upon the same terms, covenants and conditions contained in the Lease (including, without limitation, the Use Restrictions). The foregoing notwithstanding, Lessor shall have the right to approve any designee or nominee of Lender intended to operate any facility on the Real Estate in conformity with the Use Restrictions, which approval by Lessor shall not be unreasonably withheld.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2006.

LESSOR: CITY OF WICHITA  
Carlos Mayans, Mayor

ATTEST:  
Karen Sublett, City Clerk

APPROVED AS TO FORM:  
Gary E. Rebenstorf, City Attorney

LESSEE: BOYS AND GIRLS CLUBS OF SOUTH CENTRAL KANSAS, INC.

Name & Title: \_\_\_\_\_

LENDER: INTRUST Bank, N.A.  
Jack J. Roberts, Vice President

**Agenda Item No. 10f.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0559

TO: Mayor and City Council Members

SUBJECT: Supplemental Agreement for Pawnee from 119th to Maize Road (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Supplemental Agreement.

Background: On May 2, 2004, the City entered into an Agreement with Poe & Associates of Kansas, Inc. for designing Pawnee from 119th Street West to Maize Road. The fee was \$181,600. The original drainage concept for paving Pawnee was to drain to the pavement to an existing drainage system in Maize Road. During the concept stage of design, it was determined that the existing drainage system was of limited capacity and that this concept was not possible. On December 13, 2005, the City Council approved Supplemental No. 1 and revised the original concept to extend the new storm sewer to Cowskin Creek within Pawnee Prairie Park. The fee was \$59,000.

Analysis: Residents of Rutledge and Prescott have petitioned for a storm water sewer system to reduce neighborhood flooding resulting from poor backyard drainage. The Pawnee paving project plans to construct a major drainage system that will be able to serve the proposed storm water sewer system, petitioned by the Rutledge/Prescott residents.

Financial Considerations: Since Poe is designing the Pawnee street project; they are the logical firm to design the Rutledge/Prescott system. Payment to Poe will be on a lump sum basis of \$4,989 and will be paid by special assessments.

Goal Impact: This Supplemental Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed to provide a viable transportation system for the community. It also addresses the Economic Vitality and Affordable Living goal by providing a public improvement critical for the private sector's development of the surrounding area.

Legal Considerations: The Supplemental Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Supplemental Agreement and authorize the necessary signatures.

Attachments: Supplemental Agreement.

TO THE AGREEMENT FOR PROFESSIONAL SERVICES DATED MAY 4, 2004, BETWEEN THE CITY OF WICHITA, KANSAS, PARTY OF THE FIRST PART, HEREINAFTER CALLED THE "CITY, " AND POE & ASSOCIATES OF KANSAS, INC., PARTY OF THE SECOND PART, HEREINAFTER CALLED THE "ENGINEER."

WITNESSETH:

WHEREAS, there now exists a Contract (dated May 4, 2004) between the two parties covering engineering services to be provided by the ENGINEER in conjunction with the construction of improvements for PAWNEE, 119TH TO MAIZE ROAD.

WHEREAS, Paragraph IV. B. of the above referenced Contract provides that additional work be performed and additional compensation be paid on the basis of a Supplemental Agreement duly entered into by the parties, and

WHEREAS, it is the desire of both parties that the ENGINEER provide additional services required for the PROJECT and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

A. PROJECT DESCRIPTION

The description of the improvements that the CITY intends to construct and thereafter called the "PROJECT" as stated on page 1 of the above referenced agreement is hereby amended to include the following:

STORM WATER SEWER NO. 621  
(serving Lots 25 through 36, Block 13, Pawnee Mesa Addition)  
(Project No. 468 84152, OCA No. 751419)

B. PAYMENT PROVISIONS

The fee in Section IV. A. shall be amended to include the following:

Payment to the ENGINEER for the performance of the professional services as outlined in this supplemental agreement shall be made on the basis of the lump sum fee amount specified below:

468 84152                      \$4,989.00

C. COMPLETION

The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the CITY by \_\_\_\_\_;

EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions of inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.

D. PROVISIONS OF THE ORIGINAL CONTRACT

The parties hereunto mutually agree that all provisions and requirements of the existing Contract, not specifically modified by this Supplemental Agreement, shall remain in force and effect.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this Supplemental Agreement as of this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

BY ACTION OF THE CITY COUNCIL

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary Rebenstorf, Director of Law

POE & ASSOCIATES OF KANSAS, INC.

(Name and Title)

ATTEST:

## **Agenda Item No. 10g.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0560

TO: Mayor and City Council Members

SUBJECT: Supplemental Agreement for Kellogg & Rock Road Interchange (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve Supplemental Agreement No. 6 with Cook, Flatt and Strobel Engineers, P.A. (CF&S) to perform design, construction, and administration services.

Background: On June 10, 1997, the City entered into an Agreement with CF&S to begin preliminary design for East Kellogg, from Edgemoor to 127th Street East. On May 8, 2001, the City entered into an agreement with CF&S to prepare construction plans for the Kellogg and Rock Road Interchange, which include all construction from west of Armour to near the Kansas Turnpike.

On April 2, 2002, the City Council adopted Ordinance 45-294, which authorizes construction and provides funding for the project.

Analysis: The project design is nearing completion, and substantial amounts of right-of-way have been acquired. Originally, the Kellogg and Rock Road project was designed to be constructed as one large contract. Because of the time required to purchase and clear the right-of-way at various locations, the project has been divided into several smaller projects, which utilizes the right-of-way that has been acquired.

The agreement, dated June 10, 1997, with CF&S, provides that CF&S when authorized by Supplemental Agreement, will perform construction inspection and administration services. On January 11, 2000, Supplemental Agreement No. 1 was approved for CF&S to prepare final plans, specifications and estimates for the section of Kellogg from Sylvan Lane to 0.5 miles east of Woodlawn, known as the Woodlawn Interchange. On May 14, 2000, CF&S was given the Notice to Proceed with final plan preparation of the Kellogg & Rock Road Interchange in accordance with Supplemental Agreement No. 2. On September 17, 2002, Supplemental Agreement No. 3 was approved for CF&S to provided construction inspection and administration for the section the Woodlawn Interchange. On December 2, 2003, the City approved Supplemental Agreement No. 4 for construction inspection and administration of box culverts at Armour Road and Gypsum Creek, the Rock Road Pump Station, the northeast frontage road, and the Armour Road intersection of north of Kellogg.



On April 19, 2005 Supplemental Agreement No. 5 was approved to provide construction and administration for all remaining work east to the Kansas Turnpike Authority (K.T.A.) and Kellogg and Rock Road Interchange.

Proposed Supplemental Agreement No. 6 will provide design and construction services for Heather and Bonnie Brae; Signalized entrances at Towne East Mall, Eastgate Shopping Center and Holiday Inn Select motel on Rock; extending Rock farther North to relocate the Towne East Mall entrance; underground electrical transmission line; public art and letting portions of the project as separate contracts. It will provide for assistance with right-of-way acquisition and utility coordination from West of Armour to East of KTA. It will also provide for additional construction inspection resulting from unusual weather and utility delays during construction of the Woodlawn interchange. The anticipated start date for construction of the Kellogg/Rock interchange is September 2006,

Financial Considerations: Payment to CF&S will be on a cost plus fixed fee in amount not to exceed \$321,715.96. The total project cost for the Kellogg & Rock Road Interchange is estimated at \$105 million. The State of Kansas will contribute \$35,690,000 to assist with project construction. The balance of the funding will be provided by the City through the issuance of General Obligation Sales Tax Bonds with debt service payable from the annual proceeds of the local sales tax.

Goal Impact: This agreement addresses the Efficient Infrastructure goal by providing the engineering need to provide a safe and efficient transportation system. It addresses the Economic and Affordable Living goal by providing a public improvement which reduces the cost of transportation. It also improves the air quality of the region whereby the goal of a Safe and Secure Community is met by improving environmental health.

Legal Considerations: The Supplemental Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Supplemental Agreement and authorize the necessary signatures.

SUPPLEMENTAL AGREEMENT NO. 6 to the AGREEMENT FOR ENGINEERING SERVICES DATED JUNE 10, 1997, between THE CITY OF WICHITA, KANSAS, Party of the First Part, hereinafter called the "CITY," and COOK, FLATT & STROBEL, ENGINEERS, P.A. Party of the Second Part, hereinafter called the "ENGINEER."

WITNESSETH:

WHEREAS, the CITY desires to proceed with the construction of the portion of the PROJECT from east of Rock Road to KTA Interchange (i.e. Southeast Frontage Road) hereinafter called the CONSTRUCTION PHASE SERVICES – PART III, and

WHEREAS, THE City desires to modify the original agreement dated June 10, 1997 to include Construction phase engineering and inspection services, construction phase surveying, utility coordination, and provide coordination with landowners.

WHEREAS, there now exists a contract between the two parties covering Engineering Services to be provided by the ENGINEER for the improvement of East Kellogg (US 54) from Sylvan Lane to and including K-96 Interchange.

WHEREAS, paragraph IV.B of the existing contract provides that the CITY may contract for additional work on the basis of a duly entered into Supplemental Agreement.

NOW THEREFORE, the parties hereto mutually agree as follows:

1. ARTICLE, Scope of Services - revise to read:

". . . to perform the PROJECT and supplemental services identified in Attachment 1A including: ADDITIONAL SERVICES ROCK INTERCHANGE - PART III - EXHIBIT B

2. ARTICLE IV, Payment Provisions - add to and revise paragraph A:

Payment to the ENGINEER for the performance of the professional services required for ADDITIONAL SERVICES ROCK INTERCHANGE - PART III shall be based upon the ENGINEER's actual costs and may be less than the estimated amount. Payment shall be full compensation for salary costs, expenses, overhead (overhead to be applied to straight-time salary cost only with premium overtime reimbursed at cost), profit, subcontracting and all other costs required in performing the work described herein. Overhead includes fringe benefits. The test of the allowability to be applied for this agreement shall be based on the provisions of the agreement and on the reasonableness of allocation of costs under generally accepted accounting principles and practices. Overhead costs shall be computed by multiplying an Overhead Factor with actual salaries or wages paid to personnel assigned to the PROJECT. The Overhead Factor shall be 155.0 percent for the work required by this agreement.

Total payments to the ENGINEER for the preparation of the work associated with ADDITIONAL SERVICES ROCK INTERCHANGE - PART III shall include the actual costs accruing in the performance of the professional services as outlined in this agreement which are estimated to amount to \$289,746.30 plus a fixed fee for profit of \$31,969.66 so that the total payments shall not exceed the sum of \$321,715.96 and shall generally be in accordance with the estimate provided in ATTACHMENT 1A. Further, it is understood that the payments set forth in the original Agreement and Supplemental Agreements "total not to exceed" costs will be \$12,945,486.80.

3. Except as otherwise noted herein, all terms and conditions set forth in the original Agreement shall remain in force and effect.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this Supplemental Agreement as of this \_\_\_\_\_ day of \_\_\_\_\_, 2006.  
CITY OF WICHITA

Carlos Mayans, Mayor

SEAL:

ATTEST:

City Clerk

Approved as to Form

Cook, Flatt & Strobel, Engineers, P.A.

Robert S. Chambers, Vice President

ATTEST:

## SCOPE OF SERVICES STATEMENT

### SUPPLEMENTAL AGREEMENT NO. 6 TO THE AGREEMENT FOR PROFESSIONAL SERVICE DATED JUNE 10, 1997

#### I. GENERAL

The objective of this agreement shall be to:

- 1) Provide Additional services for the Section of the segment of East Kellogg know as Rock Road Interchange.

#### ADDITIONAL SERVICES ROCK INTERCHANGE - PART III

Cook Flatt & Strobel Engineers, P.A. (Engineer) will function as the prime consultant for the design and inspection team, which will include Allied Labs as the subconsultant for material inspection and testing.

The work outlined henceforth shall hereinafter be referred to as the “ADDITIONAL SERVICES ROCK INTERCHANGE - PART III ” to differentiate it from the PROJECT as defined in the original agreement.

#### II. SCOPE OF SERVICES

- 1) Additional Services

The ENGINEER shall provide engineering and technical services as required by the project. Design and Inspection will be carried out as required by the City of Wichita and Kansas Department of Transportation.

The Additional Services includes the following:

- a. Re – Design for Heather and Bonnie Brae.
- b. Letting North Frontage west of Armour as a separate project.
- c. Design Signalized Entrances for Town East Mall, East Gate Shopping Center and extending Rock Road further north.
- d. Additional Survey required for extending Rock Road further North, ROW surveys for K-mart and Michael’s properties, and Remnants north of Kellogg between Gypsum Creek and Rock Road.
- e. Additional Construction Inspection for extension of Rock Road, Heather, Bonnie Brae and Signalized Entrances.
- f. Additional Construction Inspection required due to extra days to the Contractor.
- g. Additional Design Services to include Art on Rock Road Bridge.
- h. Assist City with Right of Way and Acquisition issues with Town East Mall.
- i. Provide Tract Maps, Legal Descriptions and Coordination of future utilities as requested for properties east of KTA.
- j. Include Westar Transmission Line in Rock Road Plans.

**COST PROPOSAL**

**E. KELLOGG - ADDITIONAL SERVICES ROCK INTERCHANGE**

**A. Re - Design for Heather and Bonnie Brae**

	Manhours	Rate	Labor Cost
Project Manager	16	\$50.00	\$800.00
Project Engineer	40	37.00	1,480.00
Design Engineer	80	27.00	2,160.00
Sr. Technician	120	25.00	3,000.00
Clerical	8	16.50	132.00
Subtotal	264		\$7,572.00

**B. Letting North Frontage Road west of Armour as a separate Project.**

	Manhours	Rate	Labor Cost
Project Manager	8	\$50.00	\$400.00
Project Engineer	32	37.00	1,184.00
Design Engineer	72	27.00	1,944.00
Sr. Technician	140	25.00	3,500.00
Clerical	8	16.50	132.00
Subtotal	260		\$7,160.00

**C. Designing Signalized Entrances for Town East Mall and Eastgate and extending Rock Road further North**

	Manhours	Rate	Labor Cost
Project Manager	40	\$50.00	\$2,000.00
Project Engineer	160	37.00	5,920.00
Design Engineer	240	27.00	6,480.00
Sr. Technician	320	25.00	8,000.00
Jr. Technician	320	20.00	6,400.00
Clerical	32	16.50	528.00
Subtotal	1,112		\$29,328.00

**D. Additional Survey for Extending Rock Road North and South,  
ROW Surveys for K-mart, Michael's and remnants North of Kellogg between Gypsum**

**Creek and Rock Road**

	Manhours	Rate	Labor Cost
Project Engineer	12	37.00	444.00
Sr. Technician	60	25.00	1,500.00
Survey Manager	32	\$20.00	\$640.00
2-man Survey Crew	120	48.00	5,760.00
Clerical	24	16.50	396.00
Subtotal	248		\$8,740.00

**E. Additional Construction Inspection for extension of Rock Road and additional Signalized Entrances, Heather and Bonnie Brae**

	Manhours	Rate	Labor Cost
Senior Const. Project Engineer	24	38.00	912.00
Sr. Project Inspector	48	24.00	1,152.00
Project Inspector	120	\$20.00	\$2,400.00
Clerical	16	16.50	264.00
Subtotal	208		\$4,728.00

**F. Additional Construction Inspection for extension of time to the Contractor**

	Manhours	Rate	Labor Cost
Senior Const. Project Engineer	180	38.00	6,840.00
Sr. Project Inspector	275	24.00	6,600.00
Project Inspector	360	\$20.00	\$7,200.00
Clerical	32	16.50	528.00
Subtotal	847		\$21,168.00

**G. Additional Design Services to include Art on Rock Road Bridge**

	Manhours	Rate	Labor Cost
Project Manager	16	\$50.00	\$800.00
Project Engineer	48	37.00	1,776.00
Sr. Technician	120	25.00	3,000.00
Clerical	4	16.50	66.00
Subtotal	188		\$5,642.00

**H. Assist City with Right of Way and Acquisition issues with Town East Mall including Jayhawk Pipeline**

	Manhours	Rate	Labor Cost
Project Manager	32	\$50.00	\$1,600.00
Project Engineer	120	37.00	4,440.00
Sr. Technician	60	25.00	1,500.00

Clerical	<u>4</u>	16.50	<u>66.00</u>
Subtotal	216		\$7,606.00

**I. Provide Tract Maps, Legal Descriptions and Coordination of future utilities as requested for properties east of KTA**

	Manhours	Rate	Labor Cost
Project Manager	32	\$50.00	\$1,600.00
Project Engineer	120	37.00	4,440.00
Sr. Technician	60	25.00	1,500.00
Clerical	<u>4</u>	16.50	<u>66.00</u>
Subtotal	216		\$7,606.00

**J. Include Westar Transmission Line in Rock Road Project**

	Manhours	Rate	Labor Cost
Project Manager	8	\$50.00	\$400.00
Project Engineer	80	37.00	2,960.00
Sr. Technician	60	25.00	1,500.00
Clerical	<u>4</u>	16.50	<u>66.00</u>
Subtotal	152		\$4,926.00

DIRECT LABOR	3,711		\$104,476.00
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OVERHEAD ON LABOR		155.00%	\$161,937.80
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LABOR + OVERHEAD			<u>\$266,413.80</u>
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FIXED FEE		12.00%	\$31,969.66
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**SUBCONSULTANTS**

Daniel Gegen Designs			\$2,082.50
Chris Frank			\$1,500.00
Whipple Studios LLC			\$12,750.00
Allied Labs-Material Inspection			<u>\$2,000.00</u>

Subtotal (Subconsultants)			\$18,332.50
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DIRECT EXPENSES			<u>\$5,000.00</u>
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TOTAL			<b>\$321,715.96</b>
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## **Agenda Item No. 10h.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0561

TO: Mayor and City Council Members

SUBJECT: Supplemental Agreement for Central from Oliver to West of Woodlawn (Districts I & II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Supplemental Agreement.

Background: On July 1, 2003, the City entered into an Agreement with MKEC Engineering Consultants, Inc. (MKEC) for designing improvements to Central from Oliver to west of Woodlawn. The fee was \$113,500. On January 17, 2006, the City Council approved Supplemental No. 1 to include the intersections of Central & Oliver and Central & Edgemoor. The fee was \$78,500.

Analysis: The Water Department has asked MKEC to design plans for water and sewer replacement associated with the intersection of Central and Oliver. Supplemental Agreement No. 2 has been prepared to authorize the additional design services.

Financial Considerations: Payment to MKEC for the Supplemental Agreement will be made on a lump sum basis of \$6,750, and will be paid by Water and Sewer revenues.

Goal Impact: This Supplemental Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed to provide a viable transportation system for the community.

Legal Considerations: The Supplemental Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Supplemental Agreement and authorize the necessary signatures.

Attachments: Supplemental Agreement.

TO THE AGREEMENT FOR PROFESSIONAL SERVICES DATED JULY 3, 2003  
BETWEEN THE CITY OF WICHITA, KANSAS, PARTY OF THE FIRST PART,  
HEREINAFTER CALLED THE "CITY, " AND MKEC ENGINEERING CONSULTANTS,  
INC. PARTY OF THE SECOND PART, HEREINAFTER CALLED THE ENGINEER"

WITNESSETH:

WHEREAS, there now exists a Contract (dated July 3, 2003) between the two parties covering engineering services to be provided by the ENGINEER in conjunction with the construction of improvements to the CENTRAL FROM OLIVER TO WEST OF WOODLAWN.

WHEREAS, Paragraph IV. B. of the above referenced Contract provides that additional work be performed and additional compensation be paid on the basis of a Supplemental Agreement duly entered into by the parties, and

WHEREAS, it is the desire of both parties that the ENGINEER provide additional services required for the PROJECT and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

A. PROJECT DESCRIPTION

The description of the improvements that the CITY intends to construct and thereafter called the "PROJECT" as stated on page 1 of the above referenced agreement is hereby amended to include the following:

Central & Oliver Intersection

(water & sanitary sewer replacement associated with the intersection)

- Replacement of the existing 8" sanitary sewer line in Oliver between Central and the alley behind the Quick Trip Store with a 12" main (approx. 170 feet) and replacement or rehabilitation to the north manhole on the line.
- Replacement of the existing 6" water line in Oliver from the south project limit to the north project limit with an 8" line (approx. 955 feet).
- Replacement of water meters and service lines leading from the new main along Oliver (approx. 15).
- Plans sheets to be included in the Central & Oliver plan set will include plan and profile sheets for new water and sanitary sewer lines, all appropriate detail sheets for water and sanitary sewer construction, and bubble maps.

B. PAYMENT PROVISIONS

The fee in Section IV. A. shall be amended to include the following:

Payment to the ENGINEER for the performance of the professional services as outlined in this supplemental agreement will increase the total contract by \$6,750.00.



C. COMPLETION

The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the CITY by \_\_\_\_\_;

EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions of inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.

D. PROVISIONS OF THE ORIGINAL CONTRACT

The parties hereunto mutually agree that all provisions and requirements of the existing Contract, not specifically modified by this Supplemental Agreement, shall remain in force and effect.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this Supplemental Agreement as of this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

BY ACTION OF THE CITY COUNCIL  
Carlos Mayans, City Mayor

ATTEST:  
Karen Sublett, City Clerk

APPROVED AS TO FORM:  
Gary Rebenstorf, Director of Law

MKEC ENGINEERING CONSULTANTS, INC.  
(Name and Title)

## **Agenda Item No. 10i.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0562

TO: Mayor and City Council Members

SUBJECT: Supplemental Agreement for Hillside from Kellogg to Central  
(District VI)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Supplemental Agreement.

Background: On April 17, 2001, the City entered into an Agreement with Baughman Company, P.A. for designing improvements to Hillside from Kellogg to Central. The fee was \$196,000. The project was on hold for over 2 years due to difficulties with right-of-way condemnations. Further revisions to the plans were necessary to reduce or minimize additional right-of-way acquisitions. On February 7, 2006, the City Council approved Supplemental No. 1 for additional funds needed to cover costs and overhead to complete this project. The fee was \$17,325.

Analysis: As the design of this project has progressed, staff now feels that left turn lanes at the inter-section of Douglas and Hillside should be added to the project scope. Supplemental Agreement No. 3 has been prepared to authorize the additional funding.

Financial Considerations: Payment to Baughman for the Supplemental Agreement will be made on a lump sum basis of \$27,400, and will be paid by General Obligations Bonds.

Goal Impact: This Supplemental Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed to provide a viable transportation system for the community.

Legal Considerations: The Supplemental Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Supplemental Agreement and authorize the necessary signatures.

Attachments: Supplemental Agreement.

SUPPLEMENTAL AGREEMENT TO THE AGREEMENT FOR PROFESSIONAL SERVICES DATED APRIL 17, 2001, BETWEEN THE CITY OF WICHITA, KANSAS, PARTY OF THE FIRST PART, HEREINAFTER CALLED THE "CITY," AND BAUGHMAN COMPANY, P.A., PARTY OF THE SECOND PART, HEREINAFTER CALLED THE "ENGINEER."

WITNESSETH:

WHEREAS, there now exists a Contract (dated April 17, 2001) between the two parties covering engineering services to be provided by the ENGINEER in conjunction with the construction of improvements to HILLSIDE FROM KELLOGG TO CENTRAL (Project No. 472 83361).

WHEREAS, Paragraph IV. B. of the above referenced Contract provides that additional work be performed and additional compensation be paid on the basis of a Supplemental Agreement duly entered into by the parties, and

WHEREAS, it is the desire of both parties that the ENGINEER provide additional services required for the PROJECT and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

A. PROJECT DESCRIPTION

The description of the improvements that the CITY intends to construct and thereafter called the "PROJECT" as stated on page 1 of the above referenced agreement is hereby amended to include the following:

Left Turn Lanes at the Intersection of Douglas & Hillside

B. PAYMENT PROVISIONS

The fee in Section IV. A. shall be amended to include the following:

Payment to the ENGINEER for the performance of the professional services as outlined in this supplemental agreement will increase the total contract by \$27,400.00.

C. COMPLETION

The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the CITY by \_\_\_\_\_;

EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.

D. PROVISIONS OF THE ORIGINAL CONTRACT

The parties hereunto mutually agree that all provisions and requirements of the existing Contract, not specifically modified by this Supplemental Agreement, shall remain in force and effect.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this Supplemental Agreement as of this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

CITY OF WICHITA  
Carlos Mayans, Mayor

ATTEST:  
Karen Sublett, City Clerk

APPROVED AS TO FORM:  
Gary Rebenstorf, Director of Law

BAUGHMAN COMPANY  
(Name and Title)

ATTEST:

## **Agenda Item No. 10j.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0563

TO: Mayor and City Council Members

SUBJECT: Connecting Link Agreement for State and Federal Highways  
(All Districts)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: Sections of federal and state highways within the City limits of Wichita are designated as Connecting Links by the Kansas Secretary of Transportation. These Connecting Links include the Interstate Routes (I-135, I-235 and I-35), Federal Highways (US 54, US 81 and US 400), and State Highways (K-2/42, K-15, K-96 and K-254).

Kansas Statutes provide that the Secretary of Transportation shall be responsible for maintenance of all fully access controlled (freeway) connecting links. The statutes also authorize the Secretary to enter into agreements with cities for the maintenance of other connecting links. If the Secretary does not maintain the connecting link, the City shall be reimbursed \$3,000 per lane mile for all connecting link mileage within the City limits.

Analysis: Because of the recent completion of improvements to Kellogg from one-half west of Maize to Holland Street, east of Tyler full access control is now provided for this section of US 54 and US 400. As a result, Kansas Department of Transportation (KDOT) will assume the maintenance responsibility for this roadway. The total mileage that the City is responsible for maintaining will be reduced from 43.525 to 35.298 lane miles.

The Connecting Links that the City will continue to maintain include:

- Kellogg (US 54/400) – 119th St. W. to ½ mile west of Maize Road
- Edgemoor to east City limits
- Broadway/47th St. S. (US 81) – 55th St. S. to 47th St. S., then east to I-135
- Southwest Boulevard (K2/42) – Hoover Road to US 54
- Southeast Boulevard (K-15) – Kansas Turnpike to I-135

Financial Considerations: The City is reimbursed for maintenance expenditures at the rate of \$3,000 per lane mile, which is a continuation of the \$3,000 per lane mile from the existing agreement. The decrease of the number lane miles results in a proportionate decrease in the reimbursement. Total reimbursement to the City will decrease from \$125,568 to \$105,894.

Goal Impact: This Agreement addresses the Efficient Infrastructure goal by providing funding for maintenance of a vital vehicular transportation route.

Legal Considerations: The agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council 1) Approve the Connecting Link Agreement, and 2) Authorize the necessary signatures.

## **Agenda Item No. 10k.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0564

TO: Mayor and City Council Members

SUBJECT: Supplemental Agreement for Construction Engineering and Staking in Auburn Hills 16th Addition (south of Maple, east of 151st Street West) (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Supplemental Agreement.

Background: The City Council approved the storm water drainage improvements in Auburn Hills 16th Addition on November 1, 2005. On April 6, 2006 the City approved an Agreement with Baughman Company, P.A. to design the improvements. The Design Agreement with Baughman requires Baughman to provide construction engineering and staking services if requested by the City.

Analysis: The proposed Supplemental Agreement between the City and Baughman provides for construction engineering and staking the improvements. Due to the current workload created by previous projects, City crews are not available to perform the staking for this project.

Financial Considerations: Payment to Baughman will be on a lump sum basis of \$34,000 and will be paid by special assessments.

Goal Impact: This Supplemental Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of drainage improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

Legal Considerations: The Supplemental Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Supplemental Agreement and authorize the necessary signatures.

Attachments: Supplemental Agreement

SUPPLEMENTAL AGREEMENT TO THE AGREEMENT FOR PROFESSIONAL SERVICES DATED APRIL 4, 2006, BETWEEN THE CITY OF WICHITA, KANSAS, PARTY OF THE FIRST PART, HEREINAFTER CALLED THE "CITY," AND BAUGHMAN COMPANY, P.A., PARTY OF THE SECOND PART, HEREINAFTER CALLED THE "ENGINEER."

WITNESSETH:

WHEREAS, there now exists a Contract (dated April 4, 2006) between the two parties covering engineering services to be provided by the ENGINEER in conjunction with the construction of improvements in AUBURN HILLS 16TH ADDITION (south of Maple, east of 151st Street West).

WHEREAS, Paragraph IV. B. of the above referenced Contract provides that additional work be performed and additional compensation be paid on the basis of a Supplemental Agreement duly entered into by the parties, and

WHEREAS, it is the desire of both parties that the ENGINEER provide additional services required for the PROJECT and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

A. PROJECT DESCRIPTION

The description of the improvements that the CITY intends to construct and thereafter called the "PROJECT" as stated on page 1 of the above referenced agreement is hereby amended to include the following:

STAKING, AS-BUILT AND CONSTRUCTION ENGINEERING

(as per the City of Wichita Standard Construction Engineering Practices)

STORM WATER DRAIN NO. 278 serving Lots 1 through 76, Block A; Lots 1 through 10, Block B; Lots 1 through 16, Block C; Lots 1 through 26, Block D; Lots 1 through 31, Block E; Lots 1 through 9, Block F; Lots 1 through 51, Block G, Auburn Hills 16th Addition (south of Maple, east of 151st Street West) (Project No. 468 84092).

Construction staking and final as-built of all areas included in the project mass grading plan will be the responsibility of the ENGINEER, with final as-built plans submitted and sealed by a licensed land surveyor or registered professional engineer. Minimum construction staking shall consist of the following: grade stakes set at 50 foot centers in tangent sections, and 25 foot centers through curve sections, at the street centerline (to match CL street stationing per paving plans); both right-of-way lines (at lot corners); back lot/easement lines (at lot corners); as well as any other grade break lines. Grade stake cuts and fills shall be to the dirt grade as required by the mass grading plan details, and shall not be set for final pavement grade, nor to actual final subgrade elevation. Final elevations for all areas outside the street right-of-way to be graded per plans, provisions or otherwise, including lots, easements, ponds and reserve areas, shall be within +/-0.2' of plan call-outs, unless otherwise stated in plans or provisions. Final elevations within the street right-of-way shall be within +/-0.1' of plan call-outs. The ENGINEER will be responsible to provide initial as-built(s) to the City's Project Engineer, who will coordinate any rework with the contractor.



The ENGINEER'S survey and as-built generation responsibilities will include re-checking all points deemed to be out of compliance by the City project engineer, regardless of the number of times to achieve compliance. Two copies of the project specific mass grading and pond construction plan sheets will be submitted to the Project Engineer within 5 days of completion of final grading, will show original plan and final as-built elevations at all original call-out locations. Submittals will include both standard plan sheets as well as an electronic file.

**B. PAYMENT PROVISIONS**

The lump sum fee and the accumulated partial payment limits in Section IV. A. shall be amended as follows:

Payment to the ENGINEER for the performance of the professional services as outlined in this supplemental agreement shall be made on the basis of the lump sum fee specified below:

Project No. 468 84092                      \$34,000.00

**C. PROVISIONS OF THE ORIGINAL CONTRACT**

The parties hereunto mutually agree that all provisions and requirements of the existing Contract, not specifically modified by this Supplemental Agreement, shall remain in force and effect.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this Supplemental Agreement as of this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

**BY ACTION OF THE CITY COUNCIL**

Carlos Mayans, Mayor

**ATTEST:**

Karen Sublett, City Clerk

**APPROVED AS TO FORM:**

Gary Rebenstorf, Director of Law

**BAUGHMAN COMPANY, P.A.**

(Name & Title)

**ATTEST:**

## **Agenda Item No. 101.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0565

TO: Mayor and City Council Members

SUBJECT: Supplemental Agreement for Oliver from Harry to Kellogg  
(District III)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Supplemental Agreement.

Background: On May 11, 2004, the City entered into an Agreement with MKEC Engineering Consultants, Inc. (MKEC) for designing improvements to Oliver from Harry to Kellogg. The fee was \$118,600. On August 9, 2005, the City Council approved Supplemental No. 1 to include the intersection of Oliver and Harry. The fee was \$79,191.

Analysis: The Water Department has asked MKEC to design plans for sanitary sewer improvements in Harry associated with the improvements of Oliver from Harry to Kellogg. Supplemental Agreement No. 2 has been prepared to authorize the additional design services.

Financial Considerations: Payment to MKEC for the Supplemental Agreement will be made on a lump sum basis of \$4,600, and will be paid by Water and Sewer revenues.

Goal Impact: This Supplemental Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed to provide a viable transportation system for the community.

Legal Considerations: The Supplemental Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Supplemental Agreement and authorize the necessary signatures.

Attachments: Supplemental Agreement.

## SUPPLEMENTAL AGREEMENT NO. 2

TO THE AGREEMENT FOR PROFESSIONAL SERVICES DATED MAY 4, 2004,  
BETWEEN THE CITY OF WICHITA, KANSAS, PARTY OF THE FIRST PART,  
HEREINAFTER CALLED THE "CITY," AND MKEC ENGINEERING CONSULTANTS,  
INC., PARTY OF THE SECOND PART, HEREINAFTER CALLED THE "ENGINEER."

WITNESSETH:

WHEREAS, there now exists a Contract (dated May 4, 2004) between the two parties covering engineering services to be provided by the ENGINEER in conjunction with the construction of improvements to the OLIVER, HARRY TO KELLOGG.

WHEREAS, Paragraph IV. B. of the above referenced Contract provides that additional work be performed and additional compensation be paid on the basis of a Supplemental Agreement duly entered into by the parties, and

WHEREAS, it is the desire of both parties that the ENGINEER provide additional services required for the PROJECT and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

### A. PROJECT DESCRIPTION

The description of the improvements that the CITY intends to construct and thereafter called the "PROJECT" as stated on page 1 of the above referenced agreement is hereby amended to include the following:

Oliver, Harry to Kellogg

(sanitary sewer improvements associated with the project)

- Replacement of the existing 8" sanitary sewer line from manhole 5846-211 to 5846-215 in Harry east of Oliver with a 15" main (approx. 338 feet).
- Manholes 5846-212 and 5846-214 will be removed as part of the improvement.
- A point repair at manhole 5846-002 will consist of repairing an offset joint and any necessary repairs to the manhole wall and/or sealing at the manhole wall.
- Plan sheets to be included in the Oliver, Harry to Kellogg set will include plan and profile sheets for the new sanitary sewer lines, all appropriate detail sheets for sanitary sewer construction and repair, and bubble map.

### B. PAYMENT PROVISIONS

The fee in Section IV. A. shall be amended to include the following:

Payment to the ENGINEER for the performance of the professional services as outlined in this supplemental agreement will increase the total contract by \$4,600.00

### C. COMPLETION

The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the CITY by \_\_\_\_\_;

EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions of inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.

D. PROVISIONS OF THE ORIGINAL CONTRACT

The parties hereunto mutually agree that all provisions and requirements of the existing Contract, not specifically modified by this Supplemental Agreement, shall remain in force and effect.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this Supplemental Agreement as of this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

BY ACTION OF THE CITY COUNCIL  
Carlos Mayans, City Mayor

ATTEST:  
Karen Sublett, City Clerk

APPROVED AS TO FORM:  
Gary Rebenstorf, Director of Law

MKEC ENGINEERING CONSULTANTS, INC.  
(Name and Title)

ATTEST:

## **Agenda Item No. 10m.**

CITY OF WICHITA  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0566

TO: Mayor and City Council

SUBJECT: Irrigation Systems (Districts I - V)

INITIATED BY: Department of Park and Recreation

AGENDA: Consent

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Recommendation: Approve the contract.

Background: On March 21, 2006, City Council approved the initiation of the 2005 and 2006 Capital Improvement Program general obligation funding for irrigation systems. Since that time, the Park Department has developed a Request for Proposal (RFP) to select a company that is best qualified to provide upgrade, replacement and installation of the central irrigation control system for the Kellogg Corridor from Maize to Oliver. The current irrigation control system is outdated and is in need of replacement.

Analysis: On April 4, 2006 the City received five proposals from four companies. The Staff Screening and Selection Committee (SSSC) met on April 27, 2006 and short listed the firms of Lawn Sprinkler Services and one other vendor and invited each firm to present their proposals to the SSSC on May 12, 2006. The SSSC selected the firm of Lawn Sprinkler Services based on price, service support, training for city staff, and product design, construction, and capabilities.

Financial Considerations: The 2005 and 2006 Park CIP includes \$200,000 each year (\$400,000 total) for irrigation systems. The funding source is general obligation bonds.

Goal Impact: The extensive Kellogg irrigation system and the landscape improvements that this system supports helps to create a green corridor into the core area and many neighborhoods.

Legal Considerations: The Law Department has approved the contract as to form.

Recommendation/Action: It is recommended that the City Council approve the contract and authorize the necessary signatures.

Attachments: Contract with Lawn Sprinkler Services

## CONTRACT

THIS AGREEMENT made and entered into this 6th day of June, 2006, by and between the CITY OF WICHITA, a municipal corporation, hereinafter known as "CITY", and LAWN SPRINKLER SERVICES, L.L.C. (Performance Vendor Code Number – 481244088-001) whose principal office is at 1527 S. Washington, Wichita, Kansas, 67211, telephone number (316) 303-1200, hereinafter known as the "CONTRACTOR".

WITNESSETH, That for and in consideration of covenants hereinafter set out the CONTRACTOR contracts, promises and agrees to and with the CITY that Lawn Sprinkler Services, L.L.C. will furnish all the material and labor necessary to perform the mechanical, electrical, plumbing, and add alternates and/or options as required by the specifications and work orders for the City of Wichita, for Upgrade, Replacement and Installation of Central Irrigation Control System, Formal Proposal – FP600030 for the Park & Recreation Department, Recreation Division in the City of Wichita, Sedgwick County, Kansas. The bid package, plans, specifications and addenda provided by the City of Wichita as part of the bid letting process for Formal Proposal – FP600030, dated April 11, 2006, and the contractor's bid, as approved, shall be considered a part of this contract and are incorporated by reference herein, as approved by the City Council on June 6, 2006, which plans, specifications, addenda and bids are on file in the office of the City Purchasing Manager of said CITY, and are hereby incorporated and made a part of this contract to the same extend as if fully set out herein.

CONTRACTOR further agrees that the work under this contract shall be completed to the full satisfaction of the City Purchasing Manager of the City of Wichita on or before August 15, 2006, for completion. Said work shall be done under the direct supervision of said Purchasing Manager, or such other person as the City Council may direct, and that said Purchasing Manager's decision as to the material used in said improvement and the method in which the work is to be done shall be final and conclusive upon the parties hereto. Working days shall be as defined in the Standard Specifications of the City of Wichita.

CONTRACTOR further agrees that at all times during the prosecution of said improvement Lawn Sprinkler Services, L.L.C. will maintain the proper safeguards, barricades and lights on the work and every portion thereof to insure the highest degree of safety to the public, and that Lawn Sprinkler Services, L.L.C. will hold the City of Wichita harmless in all suits for damages brought against either of the parties to this contract on account of the negligent acts, omissions or default of said CONTRACTOR, their agents or servants in the prosecution of the work on said improvement.

CONTRACTOR further agrees to maintain said improvement for a period of one (1) year from date of the completion and acceptance of same by the City of Wichita; this maintenance to be done and performed by said CONTRACTOR without any expense to the CITY whatsoever. CONTRACTOR to furnish to the CITY any manufacturer's warranty on materials as applicable.

CONTRACTOR shall furnish the CITY a good and sufficient bond guaranteeing the completion of said improvement and every part thereof according to the specifications and the bid of said CONTRACTOR and the terms of this contract; conditioned further, for the maintenance of said improvements as herein before provided.

CONTRACTOR shall furnish a bond to the State of Kansas in the total amount of this contract; conditioned upon the payment of all material and labor bills incurred in the making of said improvement.

Indemnification and Insurance.

a. CONTRACTOR shall save and hold the CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of CONTRACTOR, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract.

b. CONTRACTOR will carry insurance coverage during the term of this contract and any extensions thereof in the amounts and manner provided as follows:

1. Comprehensive General Liability covering premises—operations, xcu (explosion, collapse and underground) hazards when applicable, Product/Completed operations, Broad Form Property Damage, and Contractual Liability with minimum limits as follows:

Bodily Injury Liability	\$500,000 each occurrence \$500,000 each aggregate
Property Damage Liability	\$500,000 each occurrence \$500,000 each aggregate
Or	
Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 each occurrence \$500,000 each aggregate

2. Automobile Liability - Comprehensive Form including all owned, hired and non-owned vehicles with minimum limits for:

Bodily Injury Liability	\$500,000 each accident
Property Damage Liability	\$500,000 each accident
Or	
Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 each accident

3. Workers' Compensation/Employers Liability for minimum limits of:  
Employers Liability \$100,000 each accident

CITY shall pay CONTRACTOR the following amount for the contract work:

Furnish all labor, material, and equipment for the Upgrade, Replacement and Installation of Calsense Central Irrigation Control System as per specifications of Request for Proposal - FP600030.

TOTAL MAXIMUM CONTRACT AMOUNT: \$231,541.19

The CONTRACTOR shall be entitled to payment of 90 percent of its progress estimates every thirty (30) days during the prosecution of said improvement; 10 percent of the total amount being at all times retained until final completion, at which time CONTRACTOR shall be entitled to final payment.

If the CONTRACTOR fails to complete all requirements identified within these specifications by August 15, 2006, it is understood and the CONTRACTOR hereby agrees that the amount of one hundred dollars (\$100.00) per calendar day to a maximum of the contract price may be deducted from the moneys due the CONTRACTOR for each intervening calendar day any work remains incomplete, not as a penalty but as liquidated damages. CONTRACTOR will not be liable if performance failure arises out of causes beyond their control and without fault or negligence of the CONTRACTOR (e.g., acts of God, war, fires, floods, freight embargoes). Should a performance failure occur, it will be the responsibility of the CONTRACTOR to notify the Purchasing Manager in writing and submit proof of the circumstance responsible for non-performance, the CONTRACTOR must re-negotiate delivery schedules.

The CONTRACTOR, in performing the work required under this contract, agrees to comply with the provisions of the "Revised Non-Discrimination and Equal Employment Opportunity Statement For Contracts or Agreement" of the City of Wichita, which is incorporated herein by reference and attached as "Exhibit A".

For good cause, and as consideration for executing this contract, the CONTRACTOR, acting herein by and through its authorized agent, hereby conveys, sells, assigns, and transfers to the City of Wichita all right, title, and interest in and to all causes of action it may now or hereafter acquire under the anti-trust laws of the United States and the State of Kansas, relating to the particular product, products, or services purchased or acquired by the City of Wichita pursuant to this contract.

Independent Contractor. The relationship of the CONTRACTOR to the CITY will be that of an independent contractor. No employee or agent of the CONTRACTOR shall be considered an employee of the CITY.

Compliance with Laws. CONTRACTOR shall comply with all laws, statutes and ordinances which may pertain to the providing of services under this contract.



No Assignment. The services to be provided by the CONTRACTOR under this contract are personal and cannot be assigned, delegated, sublet or transferred without the specific written consent of the CITY.

Third Party Rights. It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this contract to create in the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

No Arbitration. The CONTRACTOR and the CITY shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in bid or proposal documents is deemed void.

Governing Law. This contract shall be interpreted according to the laws of the State of Kansas.

Representative's Authority to Contract. By signing this contract, the representative of the contractor or vendor represents that he or she is duly authorized by the contractor or vendor to execute this contract, and that the contractor or vendor has agreed to be bound by all its provisions.

IN WITNESS WHEREOF the City of Wichita has caused these presents to be signed by its Purchasing Manager and attested by its clerk with the seal of the City of Wichita impressed hereon, and the CONTRACTOR has caused these presents to be duly executed the day and year first herein written.

ATTEST:

THE CITY OF WICHITA

Patsy Eichacker  
Deputy City Clerk

Melinda A. Walker  
Purchasing Manager

APPROVED AS TO FORM:  
LAWN SPRINKLER SERVICES, L.L.C.

Gary E. Rebenstorf  
Director of Law

Title (Managing Member)  
Carlos Mayans, Mayor

## EXHIBIT A

### REVISED NON DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination Equal Employment Opportunity/Affirmative Action Program Requirements:

A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.

B. Requirements of the State of Kansas:

1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44 1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;

2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";

3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44 1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.

2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

## **Agenda Item No. 10n.**

CITY OF WICHITA  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0567

TO: Mayor and City Council

SUBJECT: Playground Rehabilitation and Development (Districts I, III, IV & VI)

INITIATED BY: Department of Park and Recreation

AGENDA: Consent

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Recommendation: Approve the contracts.

Background: On September 13, 2005, City Council approved the initiation of the 2005 and 2006 Capital Improvement Program general obligation funding for renovating and replacing playground equipment at North Woodland, Evergreen, Schell, Cessna, Osage, Fairmount and Central Riverside Parks. Since that time, the Park Department has developed a Request for Proposal (RFP) to select companies that are best qualified to provide design build playground improvements.

On March 8, 2005 City Council approved Community Development Block Grant (CDBG) Neighborhood Stabilization funding in the amount of \$15,000 for North Woodland Park and \$71,914 for Evergreen Park playground renovations. On March 21, 2006 City Council approved Community Development Block Grant (CDBG) Neighborhood Stabilization funding in the amount of \$45,000 for Cessna Park playground improvements and \$50,000 for North Woodland Park playground rubber surfacing.

Analysis: On February 24th, 2006 the City received proposals from four companies. The Staff Screening and Selection Committee (SSSC) met on March 10, 2006 and short listed the firms of Athco, Inc., Suburban Landscape Management, and one other company and invited each firm to present their proposals to the SSSC on March 29th, 2006. The SSSC selected the firms of Athco and Suburban Landscape Management based on the specific merits of their proposals as they related to each individual park playground site. The selection of rubber surfacing projects for Fairmount and Osage Parks were based solely on lowest proposal price, noting that each short-listed company had excellent past product and installation performance with rubber safety surfacing.

Park staff presented the playground plans to El Pueblo Neighborhood Association on April 18, District Advisory Board VI on May 1, and Riverside Citizens Association on May 9 and is scheduled to present to District Advisory Board III on June 7. Citizens and District Advisory Board members provided suggestions and some of those will be incorporated into the playground improvements.

Investments in North Woodland, Evergreen and Cessna Parks will be to replace the concrete play features that were removed earlier in 2005. Schell Park will receive a new playground system in accordance with the 1999 Master Plan created for this park. The swing set areas at Osage and Fairmount Parks will receive rubberized poured-in-place safety surfacing to replace the sand safety surfacing. Central Riverside Park will include complete renovation by removing the very old playground features and replacing them with a new playground system with rubber surfacing.

Financial Considerations: The 2005 and 2006 Park CIP includes \$200,000 each year (\$400,000 total) for renovating playgrounds and replacing playground equipment. The funding source is general obligation bonds. Additional CDBG Neighborhood Stabilization funding has been provided for Cessna, North Woodland, and Evergreen Parks.

Goal Impact: Playground improvements in the seven parks will help to support a dynamic core area and vibrant neighborhoods. The replacement of deteriorating playground equipment and installation of rubber safety surfacing will increase a sense of community, neighborhood involvement and satisfaction.

Legal Considerations: The Law Department has approved the contracts as to form.

Recommendation/Action: It is recommended that the City Council approve the contracts and authorize the necessary signatures.

Attachments: Two (2) – Contract with Athco, LLC and Suburban Landscape Management

## C O N T R A C T

THIS AGREEMENT made and entered into this 6th day of June, 2006, by and between the CITY OF WICHITA, a municipal corporation, hereinafter known as “CITY”, and ATHCO, L.L.C. (Performance Vendor Code Number – 431835690-001) whose principal office is at 13500 W. 108th, Lenexa, Kansas, 66215, telephone number (913) 469-5600, hereinafter known as the “CONTRACTOR”.

WITNESSETH, That for and in consideration of covenants hereinafter set out the CONTRACTOR contracts, promises and agrees to and with the CITY that Athco, L.L.C. will furnish all the material and labor necessary to perform the mechanical, electrical, plumbing, and add alternates and/or options as required by the specifications and work orders for the City of Wichita, for Design, Furnish & Install Playground Equipment, Surfacing and Improvements for Central Riverside, Cessna and Fairmount Parks, Formal Proposal – FP600020 for the Park & Recreation Department, Recreation Division in the City of Wichita, Sedgwick County, Kansas. The bid package, plans, specifications and addenda provided by the City of Wichita as part of the bid letting process for Formal Proposal – FP600020, dated February 24, 2006, and the contractor’s bid, as approved, shall be considered a part of this contract and are incorporated by reference herein, as approved by the City Council on June 6, 2006, which plans, specifications, addenda and bids are on file in the office of the City Purchasing Manager of said CITY, and are hereby incorporated and made a part of this contract to the same extend as if fully set out herein.

CONTRACTOR further agrees that the work under this contract shall be completed to the full satisfaction of the City Purchasing Manager of the City of Wichita on or before August 15, 2006 for Cessna Park and October 15, 2006 for Central Riverside and Fairmount Parks, for completion. Said work shall be done under the direct supervision of said Purchasing Manager, or such other person as the City Council may direct, and that said Purchasing Manager's decision as to the material used in said improvement and the method in which the work is to be done shall be final and conclusive upon the parties hereto. Working days shall be as defined in the Standard Specifications of the City of Wichita.

CONTRACTOR further agrees that at all times during the prosecution of said improvement Athco, L.L.C. will maintain the proper safeguards, barricades and lights on the work and every portion thereof to insure the highest degree of safety to the public, and that Athco, L.L.C. will hold the City of Wichita harmless in all suits for damages brought against either of the parties to this contract on account of the negligent acts, omissions or default of said CONTRACTOR, their agents or servants in the prosecution of the work on said improvement.

CONTRACTOR further agrees to maintain said improvement for a period of one (1) year from date of the completion and acceptance of same by the City of Wichita; this maintenance to be done and performed by said CONTRACTOR without any expense to the CITY whatsoever. CONTRACTOR to furnish to the CITY any manufacturer's warranty on materials as applicable.

CONTRACTOR shall furnish the CITY a good and sufficient bond guaranteeing the completion of said improvement and every part thereof according to the specifications and the bid of said CONTRACTOR and the terms of this contract; conditioned further, for the maintenance of said improvements as herein before provided.

CONTRACTOR shall furnish a bond to the State of Kansas in the total amount of this contract; conditioned upon the payment of all material and labor bills incurred in the making of said improvement.

#### Indemnification and Insurance.

a. CONTRACTOR shall save and hold the CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of CONTRACTOR, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract.

b. CONTRACTOR will carry insurance coverage during the term of this contract and any extensions thereof in the amounts and manner provided as follows:

1. Comprehensive General Liability covering premises—operations, xcu (explosion, collapse and underground) hazards when applicable, Product/Completed operations, Broad Form Property Damage, and Contractual Liability with minimum limits as follows:

Bodily Injury Liability	\$500,000 each occurrence
	\$500,000 each aggregate

Property Damage Liability	\$500,000 each occurrence
	\$500,000 each aggregate

Or

Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 each occurrence
	\$500,000 each aggregate

2. Automobile Liability - Comprehensive Form including all owned, hired and non-owned vehicles with minimum limits for:

Bodily Injury Liability	\$500,000 each accident
Property Damage Liability	\$500,000 each accident

Or

Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 each accident
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3. Workers' Compensation/Employers Liability for minimum limits of:

Employers Liability	\$100,000 each accident
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CITY shall pay CONTRACTOR the following amount for the contract work:

Furnish all labor, material, and equipment for the Design, Furnish, and Install Playground Equipment, Surfacing and Improvements at Central Riverside, Cessna and Fairmount Parks as per specifications of Request for Proposal - FP600020.

Central Riverside Park (equipment, surfacing and improvements)	\$224,000.00
Cessna Park* (equipment)	45,000.00
Fairmount Park (surfacing)	<u>30,810.00</u>
<b>TOTAL MAXIMUM CONTRACT AMOUNT:</b>	<b>\$299,810.00</b>

\*includes revisions

The CONTRACTOR shall be entitled to payment of 90 percent of its progress estimates every thirty (30) days during the prosecution of said improvement; 10 percent of the total amount being at all times retained until final completion, at which time CONTRACTOR shall be entitled to final payment.



If the CONTRACTOR fails to complete all requirements identified within these specifications by August 15, 2006 for Cessna Park and October 15, 2006 for Central Riverside and Fairmount Parks, it is understood and the CONTRACTOR hereby agrees that the amount of one hundred dollars (\$100.00) per calendar day per park to a maximum of the contract price may be deducted from the moneys due the CONTRACTOR for each intervening calendar day any work remains incomplete, not as a penalty but as liquidated damages. CONTRACTOR will not be liable if performance failure arises out of causes beyond their control and without fault or negligence of the CONTRACTOR (e.g., acts of God, war, fires, floods, freight embargoes). Should a performance failure occur, it will be the responsibility of the CONTRACTOR to notify the Purchasing Manager in writing and submit proof of the circumstance responsible for non-performance, the CONTRACTOR must re-negotiate delivery schedules.

The CONTRACTOR, in performing the work required under this contract, agrees to comply with the provisions of the "Revised Non-Discrimination and Equal Employment Opportunity Statement For Contracts or Agreement" of the City of Wichita, which is incorporated herein by reference and attached as "Exhibit A".

For good cause, and as consideration for executing this contract, the CONTRACTOR, acting herein by and through its authorized agent, hereby conveys, sells, assigns, and transfers to the City of Wichita all right, title, and interest in and to all causes of action it may now or hereafter acquire under the anti-trust laws of the United States and the State of Kansas, relating to the particular product, products, or services purchased or acquired by the City of Wichita pursuant to this contract.

Independent Contractor. The relationship of the CONTRACTOR to the CITY will be that of an independent contractor. No employee or agent of the CONTRACTOR shall be considered an employee of the CITY.

Compliance with Laws. CONTRACTOR shall comply with all laws, statutes and ordinances which may pertain to the providing of services under this contract.

No Assignment. The services to be provided by the CONTRACTOR under this contract are personal and cannot be assigned, delegated, sublet or transferred without the specific written consent of the CITY.

Third Party Rights. It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this contract to create in the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

No Arbitration. The CONTRACTOR and the CITY shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in bid or proposal documents is deemed void.

Governing Law. This contract shall be interpreted according to the laws of the State of Kansas.

Representative's Authority to Contract. By signing this contract, the representative of the contractor or vendor represents that he or she is duly authorized by the contractor or vendor to execute this contract, and that the contractor or vendor has agreed to be bound by all its provisions.

IN WITNESS WHEREOF the City of Wichita has caused these presents to be signed by its Purchasing Manager and attested by its clerk with the seal of the City of Wichita impressed hereon, and the CONTRACTOR has caused these presents to be duly executed the day and year first herein written.

ATTEST:  
Patsy Eichacker  
Deputy City Clerk

THE CITY OF WICHITA  
Melinda A. Walker  
Purchasing Manager

APPROVED AS TO FORM:  
Gary E. Rebenstorf  
Director of Law

ATHCO, L.L.C.

CITY OF WICHITA, KANSAS  
Title (Managing Member)  
Carlos Mayans, Mayor

#### EXHIBIT A

#### REVISED NON DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination Equal Employment Opportunity/Affirmative Action Program Requirements:

A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.

B. Requirements of the State of Kansas:

1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44 1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;

2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";

3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44 1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;

3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to

ascertain compliance with Non-Discrimination Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.

2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

## C O N T R A C T

THIS AGREEMENT made and entered into this 6th day of June, 2006, by and between the CITY OF WICHITA, a municipal corporation, hereinafter known as "CITY", and SUBURBAN LANDSCAPE MANAGEMENT (Performance Vendor Code Number – 481177425-002) whose principal office is at PO Box 16005, Wichita, Kansas, 67216, telephone number (316) 529-0002, hereinafter known as the "CONTRACTOR".

WITNESSETH, That for and in consideration of covenants hereinafter set out the CONTRACTOR contracts, promises and agrees to and with the CITY that Suburban Landscape Management will furnish all the material and labor necessary to perform the mechanical, electrical, plumbing, and add alternates and/or options as required by the specifications and work orders for the City of Wichita, for Design, Furnish & Install Playground Equipment, Surfacing and Improvements for Schell, North Woodland, Evergreen and Osage Parks, Formal Proposal – FP600020 for the Park & Recreation Department,

Recreation Division in the City of Wichita, Sedgwick County, Kansas. The bid package, plans, specifications and addenda provided by the City of Wichita as part of the bid letting process for Formal Proposal – FP600020, dated February 24, 2006, and the contractor's bid, as approved, shall be considered a part of this contract and are incorporated by reference herein, as approved by the City Council on June 6, 2006, which plans, specifications, addenda and bids are on file in the office of the City Purchasing Manager of said CITY, and are hereby incorporated and made a part of this contract to the same extent as if fully set out herein.

CONTRACTOR further agrees that the work under this contract shall be completed to the full satisfaction of the City Purchasing Manager of the City of Wichita on or before August 15, 2006 for North Woodland and Evergreen Parks and October 15, 2006 for Schell and Osage Parks, for completion. Said work shall be done under the direct supervision of said Purchasing Manager, or such other person as the City Council may direct, and that said Purchasing Manager's decision as to the material used in said improvement and the method in which the work is to be done shall be final and conclusive upon the parties hereto. Working days shall be as defined in the Standard Specifications of the City of Wichita.

CONTRACTOR further agrees that at all times during the prosecution of said improvement Suburban Landscape Management will maintain the proper safeguards, barricades and lights on the work and every portion thereof to insure the highest degree of safety to the public, and that Suburban Landscape Management will hold the City of Wichita harmless in all suits for damages brought against either of the parties to this contract on account of the negligent acts, omissions or default of said CONTRACTOR, their agents or servants in the prosecution of the work on said improvement.

CONTRACTOR further agrees to maintain said improvement for a period of one (1) year from date of the completion and acceptance of same by the City of Wichita; this maintenance to be done and performed by said CONTRACTOR without any expense to the CITY whatsoever. CONTRACTOR to furnish to the CITY any manufacturer's warranty on materials as applicable.

CONTRACTOR shall furnish the CITY a good and sufficient bond guaranteeing the completion of said improvement and every part thereof according to the specifications and the bid of said CONTRACTOR and the terms of this contract; conditioned further, for the maintenance of said improvements as herein before provided.

CONTRACTOR shall furnish a bond to the State of Kansas in the total amount of this contract; conditioned upon the payment of all material and labor bills incurred in the making of said improvement.

Indemnification and Insurance.

a. CONTRACTOR shall save and hold the CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of CONTRACTOR, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract.

b. CONTRACTOR will carry insurance coverage during the term of this contract and any extensions thereof in the amounts and manner provided as follows:

1. Comprehensive General Liability covering premises—operations, xcu (explosion, collapse and underground) hazards when applicable, Product/Completed operations, Broad Form Property Damage, and Contractual Liability with minimum limits as follows:

Bodily Injury Liability	\$500,000 each occurrence \$500,000 each aggregate
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Property Damage Liability	\$500,000 each occurrence \$500,000 each aggregate
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Or

Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 each occurrence \$500,000 each aggregate
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2. Automobile Liability - Comprehensive Form including all owned, hired and non-owned vehicles with minimum limits for:

Bodily Injury Liability	\$500,000 each accident
Property Damage Liability	\$500,000 each accident

Or

Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 each accident
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3. Workers' Compensation/Employers Liability for minimum limits of:

Employers Liability	\$100,000 each accident
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CITY shall pay CONTRACTOR the following amount for the contract work:

Furnish all labor, material, and equipment for the Design, Furnish, and Install Playground Equipment, Surfacing and Improvements at Schell, North Woodland, Evergreen and Osage Parks as per specifications of Request for Proposal - FP600020.

Schell Park* (equipment and improvements)	\$ 87,248.09
North Woodland Park* (equipment, surfacing and improvements)	70,359.65
Evergreen Park (equipment and improvements)	71,757.34
Osage Park (surfacing)	<u>22,762.00</u>
TOTAL MAXIMUM CONTRACT AMOUNT:	\$252,127.08

\*includes revisions

The CONTRACTOR shall be entitled to payment of 90 percent of its progress estimates every thirty (30) days during the prosecution of said improvement; 10 percent of the total amount being at all times retained until final completion, at which time CONTRACTOR shall be entitled to final payment.

If the CONTRACTOR fails to complete all requirements identified within these specifications by August 15, 2006 for North Woodland and Evergreen Parks and October 15, 2006 for Schell and Osage Parks, it is understood and the CONTRACTOR hereby agrees that the amount of one hundred dollars (\$100.00) per calendar day per park to a maximum of the contract price may be deducted from the moneys due the CONTRACTOR for each intervening calendar day any work remains incomplete, not as a penalty but as liquidated damages. CONTRACTOR will not be liable if performance failure arises out of causes beyond their control and without fault or negligence of the CONTRACTOR (e.g., acts of God, war, fires, floods, freight embargoes). Should a performance failure occur, it will be the responsibility of the CONTRACTOR to notify the Purchasing Manager in writing and submit proof of the circumstance responsible for non-performance, the CONTRACTOR must re-negotiate delivery schedules.

The CONTRACTOR, in performing the work required under this contract, agrees to comply with the provisions of the "Revised Non-Discrimination and Equal Employment Opportunity Statement For Contracts or Agreement" of the City of Wichita, which is incorporated herein by reference and attached as "Exhibit A".

For good cause, and as consideration for executing this contract, the CONTRACTOR, acting herein by and through its authorized agent, hereby conveys, sells, assigns, and transfers to the City of Wichita all right, title, and interest in and to all causes of action it may now or hereafter acquire under the anti-trust laws of the United States and the State of Kansas, relating to the particular product, products, or services purchased or acquired by the City of Wichita pursuant to this contract.

Independent Contractor. The relationship of the CONTRACTOR to the CITY will be that of an independent contractor. No employee or agent of the CONTRACTOR shall be considered an employee of the CITY.

Compliance with Laws. CONTRACTOR shall comply with all laws, statutes and ordinances which may pertain to the providing of services under this contract.

No Assignment. The services to be provided by the CONTRACTOR under this contract are personal and cannot be assigned, delegated, sublet or transferred without the specific written consent of the CITY.

Third Party Rights. It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this contract to create in the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

No Arbitration. The CONTRACTOR and the CITY shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in bid or proposal documents is deemed void.

Governing Law. This contract shall be interpreted according to the laws of the State of Kansas.

Representative's Authority to Contract. By signing this contract, the representative of the contractor or vendor represents that he or she is duly authorized by the contractor or vendor to execute this contract, and that the contractor or vendor has agreed to be bound by all its provisions.

IN WITNESS WHEREOF the City of Wichita has caused these presents to be signed by its Purchasing Manager and attested by its clerk with the seal of the City of Wichita impressed hereon, and the CONTRACTOR has caused these presents to be duly executed the day and year first herein written.

ATTEST: THE CITY OF WICHITA

Patsy Eichacker  
Deputy City Clerk

Melinda A. Walker  
Purchasing Manager

APPROVED AS TO FORM: SUBURBAN LANDSCAPE MANAGEMENT

Gary E. Rebenstorf  
Director of Law

CITY OF WICHITA, KANSAS

Title (President or Corporate Officer)  
Carlos Mayans, Mayor



## EXHIBIT A

### REVISED NON DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination Equal Employment Opportunity/Affirmative Action Program Requirements:

A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.

B. Requirements of the State of Kansas:

1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44 1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;

2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";

3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44 1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
6. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
7. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.

2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

## **Agenda Item No. 11a.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0568

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for The Timberlands Addition (north of Harry, west of 127th Street East) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The City Council approved the water distribution system, sanitary sewer and paving improvements in The Timberlands Addition on November 1, 2005.

Analysis: The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond financed improvements consisting of water distribution system, sanitary sewer and paving in The Timberlands Addition. Per Administrative Regulation 1.10, staff recommends that MKEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to MKEC will be on a lump sum basis of \$18,400 and will be paid by special assessments.

Goal Impact: This Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of paving, sanitary sewer, drainage and water improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

Attachments: Agreement

AGREEMENT for PROFESSIONAL SERVICES between THE CITY OF WICHITA, KANSAS, and MKEC ENGINEERING CONSULTANTS, INC., for THE TIMBERLANDS ADDITION

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and MKEC ENGINEERING CONSULTANTS, INC., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

WATER DISTRIBUTION SYSTEM NO. 448 90125 serving Lots 1 through 8, Block 1; Lots 3 through 13, Block 2, The Timberlands Addition (north of Harry, west of 127th Street East) (Project No. 448 90125).

LATERAL 385, FOUR MILE CREEK serving Lots 1 through 8, Block 1; Lots 1 & 3 through 13, Block 2, The Timberlands Addition (north of Harry, west of 127th Street East) (Project No. 468 84093).

ZIMMERLY COURT serving Lots 1 through 11, Block 2, from the north line of Zimmerly to and including the cul-de-sac (north of Harry, west of 127th Street East) (Project No. 472 84297).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in The Timberlands Addition and perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.

D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$5,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory

Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### III. THE CITY AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.
- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

### IV. PAYMENT PROVISIONS

- A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 90125	\$ 3,000.00
Project No. 468 84093	\$ 8,000.00
Project No. 472 84297	<u>\$ 7,400.00</u>
TOTAL	\$18,400.00

- B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
  - 1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
  - 2. Additional design services not covered by the scope of this agreement.
  - 3. Construction staking, material testing, inspection and administration related to the PROJECT.
  - 4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

### V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL  
Carlos Mayans, Mayor

SEAL:

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary Rebenstorf, Director of Law

MKEC ENGINEERING CONSULTANT, INC.  
(Name & Title)

ATTEST:



EXHIBIT "A"  
SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22" x 36" Mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

A. PHASE I – PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.

2. Soils and Foundation Investigations. The CITY'S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.

3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.

4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 1/2"), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.

5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.

6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.
7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.
8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
9. Project Milestones. The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the CITY within the time allotted for the PROJECT as stipulated below and generally in accordance with the project bar chart attached to Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.
  - a. Plan Development for the water improvements by 120 days from notice to proceed. (Project No. 448 90125).
  - b. Plan Development for the sewer improvements by 120 days from notice to proceed. (Project No. 468 84093).
  - c. Plan Development for the paving improvements by 120 days from notice to proceed. (Project No. 472 84297).

## **Agenda Item No. 11b.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0569

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for Krug North, Krug North 2nd and East Side Community Church 2nd Additions (north of 21st, west of 143rd Street East) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The City Council approved the water distribution system improvements in Krug North, Krug North 2nd and East Side Community Church 2nd Additions on April 13, 2004.

Analysis: The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of water distribution system in Krug North, Krug North 2nd and East Side Community Church 2nd Additions. Per Administrative Regulation 1.10, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to Baughman will be on a lump sum basis of \$10,300 and will be paid by special assessments.

Goal Impact: This Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of water improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

Attachments: Agreement

AGREEMENT for PROFESSIONAL SERVICES between THE CITY OF WICHITA, KANSAS, and BAUGHMAN COMPANY, P.A., for KRUG NORTH, KRUG NORTH 2nd AND EAST SIDE COMMUNITY CHURCH 2ND ADDITIONS

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BAUGHMAN COMPANY, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

WATER DISTRIBUTION SYSTEM NO. 448 89933 serving Lots 1 through 24, Block A; Lots 1 through 11, Block B; Lots 1 through 16, Block C; Lots 34 through 54, Block 1, Krug North Addition; Lots 1 through 47, Block A; Lots 1 through 8, Block B; Lots 1 through 48, Block C; Lots 1 through 18, Block D; Lots 1 through 20, Block E, Krug North 2nd Addition (north of 21st, west of 143rd Street East) (Project No. 448 89933).

WATER DISTRIBUTION SYSTEM NO. 448 90005 serving Lot 1, Block A, East Side Community Church 2nd Addition (north of 21st, west of 143rd Street East) (Project No. 448 90005).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Krug North & Krug North 2nd; East Side Community Church 2nd Additions and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.

D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory

Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.
- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

- A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 89933	\$ 6,000.00
Project No. 448 90005	<u>\$ 4,300.00</u>
TOTAL	\$10,300.00

- B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
  - 1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
  - 2. Additional design services not covered by the scope of this agreement.
  - 3. Construction staking, material testing, inspection and administration related to the PROJECT.
  - 4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL  
Carlos Mayans, Mayor

SEAL:

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary Rebenstorf, Director of Law

BAUGHMAN COMPANY, P.A.  
(Name & Title)

ATTEST:

## SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22” x 36” mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

### A. PHASE I - PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.

2. Soils and Foundation Investigations. The CITY’S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER’S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.

3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.

4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT’s plans and proposed special provisions shall address the requirements included in the City’s Administrative Regulations 78, “Cleanup, Restoration or Replacement Following Construction.” Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 ½”), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.



5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.
6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.
7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.
8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
9. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.
  - a. Plan Development for the water improvements by June 26, 2006.  
(Project No. 448 89933).
  - b. Plan Development for the water improvements by June 26, 2006.  
(Project No. 448 90005).

## **Agenda Item No. 11c.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0570

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for Highland Springs 3rd Addition  
(west of 135th Street West, south of Central)(District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The City Council approved the water distribution system, sanitary sewer and paving improvements in Highland Springs 3rd Addition on May 20, 2003.

Analysis: The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of water distribution system, sanitary sewer and paving in Highland Springs 3rd Addition. Per Administrative Regulation 1.10, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to Baughman will be on a lump sum basis of \$45,500 and will be paid by special assessments.

Goal Impact: This Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of water, sanitary sewer and paving improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

Attachments: Agreement

AGREEMENT for PROFESSIONAL SERVICES between THE CITY OF WICHITA, KANSAS, and BAUGHMAN COMPANY, P.A., for HIGHLAND SPRINGS 3RD ADDITION

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BAUGHMAN COMPANY, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

WATER DISTRIBUTION SYSTEM NO. 448 89829 serving Lots 1 through 16, Block E; Lots 1 through 17, Block F; Lots 1 through 6, Block G; Lot 1, Block H, Highland Springs 3rd Addition (west of 135th Street West, south of Central) (Project No. 448 89829).

LATERAL 39, COWSKIN INTERCEPTOR SEWER serving Lots 1 through 16, Block E; Lots 1 through 17, Block F; Lot 1, Block H, Highland Springs 3rd Addition (west of 135th Street West, south of Central) (Project No. 468 83636).

THOROUGHbred from the south line of Lot 1, Block E, north to the south line of Lot 21, Block D. HARDTNER from the west line of Thoroughbred, west to the west line of the plat, and on KENTUCKY LANE, from the north line of Hardtner, south to the south line of the plat. HARDTNER COURT from the north line of Hardtner, north to and including the cul-de-sac, and on BINTER CIRCLE from the west line of Thoroughbred, west and northwest to and including the cul-de-sac. Sidewalk be constructed on both sides of Thoroughbred and on one side of Hardtner. (west of 135th Street West, south of Central) (Project No. 472 83780).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Highland Springs 3rd Addition and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.

D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

- E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.
- G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory  
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### III. THE CITY AGREES:

A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.

B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.

C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.

E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.

F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

### IV. PAYMENT PROVISIONS

A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 89829	\$ 7,900.00
Project No. 468 83636	\$13,200.00
Project No. 472 83780	<u>\$24,400.00</u>
TOTAL	\$45,500.00

B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:

1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.

2. Additional design services not covered by the scope of this agreement.

3. Construction staking, material testing, inspection and administration related to the PROJECT.

4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL  
Carlos Mayans, Mayor

SEAL:

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary Rebenstorf, Director of Law

BAUGHMAN COMPANY, P.A.  
(Name & Title)

ATTEST:

## SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22” x 36” mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

### A. PHASE I - PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.

2. Soils and Foundation Investigations. The CITY’S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER’S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.

3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.

4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT’s plans and proposed special provisions shall address the requirements included in the City’s Administrative Regulations 78, “Cleanup, Restoration or Replacement Following Construction.” Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 ½”), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.

5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.
6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.
7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.
8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
9. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.
  - a. Plan Development for the water improvements by July 3, 2006.  
(Project No. 448 89829).
  - b. Plan Development for the sewer improvements by July 3, 2006.  
(Project No. 468 83636).
  - c. Plan Development for the paving improvements by July 24, 2006.  
(Project No. 472 83780).



**AGENDA ITEM NO. 11d.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0571

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for Falcon Falls 3rd Addition (north of 45th Street North, west of Hillside) (District I)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The City Council approved the water distribution system, sanitary sewer and storm water improvements in Falcon Falls 3rd Addition on November 8, 2005.

Analysis: The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of water distribution system, sanitary sewer and storm water in Falcon Falls 3rd Addition. Per Administrative Regulation 1.10, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to Baughman will be on a lump sum basis of \$31,200 and will be paid by special assessments.

Goal Impact: This Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of sanitary sewer, drainage and water improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

Attachments: Agreement

AGREEMENT for PROFESSIONAL SERVICES between THE CITY OF WICHITA, KANSAS, and BAUGHMAN COMPANY, P.A., for FALCON FALLS 3RD ADDITION

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BAUGHMAN COMPANY, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

WATER DISTRIBUTION SYSTEM NO. 448 90128 serving Lots 1 through 3, Block A; Lots 36 through 40, Block A; Lots 1 through 16, Block C; Lots 1 through 8, Block D; Lots 12 through 22, Block E, Falcon Falls 3rd Addition (north of 45th Street North, west of Hillside) (Project No. 448 90128).

LATERAL 9, MAIN 13, SANITARY SEWER NO. 23 serving Lots 1 through 12, Block A; Lots 36 through 40, Block A; Lots 1 through 16, Block C; Lots 1 through 8, Block D; Lot 1, Block E; Lots 12 through 22, Block E, Falcon Falls 3rd Addition (north of 45th Street North, west of Hillside) (Project No. 468 84096).

STORM WATER SEWER NO. 618 serving Lots 1 through 3, Block A; Lots 36 through 40, Block A; Lots 1 through 16, Block C; Lots 1 through 8, Block D; Lots 12 through 22, Block E, Falcon Falls 3rd Addition (north of 45th Street North, west of Hillside) (Project No. 468 84099).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Falcon Falls 3rd Addition and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.

D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory

Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### III. THE CITY AGREES:

A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.

B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.

C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.

E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.

F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

### IV. PAYMENT PROVISIONS

A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 90128	\$ 8,500.00
Project No. 468 84096	\$13,800.00
Project No. 468 84099	<u>\$ 8,900.00</u>
TOTAL	\$31,200.00

B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:

1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.

2. Additional design services not covered by the scope of this agreement.

3. Construction staking, material testing, inspection and administration related to the PROJECT.

4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL  
Carlos Mayans, Mayor

SEAL:

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary Rebenstorf, Director of Law

BAUGHMAN COMPANY, P.A.  
(Name & Title)

ATTEST:

## SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22” x 36” mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

### A. PHASE I - PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.

2. Soils and Foundation Investigations. The CITY’S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER’S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.

3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.

4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT’s plans and proposed special provisions shall address the requirements included in the City’s Administrative Regulations 78, “Cleanup, Restoration or Replacement Following Construction.” Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 ½”), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.

5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.
6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.
7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.
8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
9. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.
  - a. Plan Development for the water improvements by June 26, 2006.  
(Project No. 448 90128).
  - b. Plan Development for the sanitary sewer improvements by June 26, 2006.  
(Project No. 468 84096).
  - a. Plan Development for the storm water sewer improvements by July 10, 2006.  
(Project No. 472 84099).

## **Agenda Item No. 11e.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0572

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for Clifton Cove Addition (south of 63rd Street South, west of Clifton) (District III)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The City Council approved the water distribution system and storm drainage improvements in Clifton Cove Addition on November 15, 2005.

Analysis: The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of water distribution system and storm drainage in Clifton Cove Addition. Per Administrative Regulation 1.10, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to Baughman will be on a lump sum basis of \$66,600 and will be paid by special assessments.

Goal Impact: This Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of water and storm drainage improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

Attachments: Agreement



AGREEMENT for PROFESSIONAL SERVICES between THE CITY OF WICHITA, KANSAS, and BAUGHMAN COMPANY, P.A., for CLIFTON COVE ADDITION.

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BAUGHMAN COMPANY, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

WATER DISTRIBUTION SYSTEM NO. 448 90080 serving Lots 1 through 30, Block A; Lots 1 through 16, Block B; Lots 1 through 4, Block C; Lots 1 through 24, Block D; Lots 1 through 14, Block E, Lots 1 through 20, Block F, Clifton Cove Addition (south of 63rd Street South, west of Clifton) (Project No. 448 90080).

WATER DISTRIBUTION SYSTEM NO. 448 90081 serving Lots 1 through 24, Block D; Lots 1 through 14, Block E, Lots 1 through 20, Block F, Clifton Cove Addition (south of 63rd Street South, west of Clifton) (Project No. 448 90081).

STORM WATER DRAIN NO. 269 serving Lots 1 through 30, Block A; Lots 1 through 16, Block B; Lots 1 through 4, Block C; Lots 1 through 24, Block D; Lots 1 through 14, Block E, Lots 1 through 20, Block F, Clifton Cove Addition (south of 63rd Street South, west of Clifton) (Project No. 468 84024).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Clifton Cove Addition and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.

D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory

Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### III. THE CITY AGREES:

A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.

B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.

C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.

E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.

F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

### IV. PAYMENT PROVISIONS

A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 90080	\$23,800.00
Project No. 448 90081	\$10,800.00
Project No. 468 84024	<u>\$32,000.00</u>
TOTAL	\$66,600.00

B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:

1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.

2. Additional design services not covered by the scope of this agreement.

3. Construction staking, material testing, inspection and administration related to the PROJECT.

4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL  
Carlos Mayans, Mayor

SEAL:

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary Rebenstorf, Director of Law

BAUGHMAN COMPANY, P.A.  
(Name & Title)

ATTEST:

## SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22” x 36” mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

### A. PHASE I - PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.

2. Soils and Foundation Investigations. The CITY’S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER’S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.

3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.

4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT’s plans and proposed special provisions shall address the requirements included in the City’s Administrative Regulations 78, “Cleanup, Restoration or Replacement Following Construction.” Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 ½”), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.

5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.
6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.
7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.
8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
9. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.
  - a. Plan Development for the water improvements by June 19, 2006.  
(Project No. 448 90080).
  - b. Plan Development for the water improvements by June 19, 2006.  
(Project No. 448 90081).
  - c. Plan Development for the storm drainage improvements by July 10, 2006.  
(Project No. 468 84024).

## **Agenda Item No. 11f.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0573

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for Auburn Hills 16th Addition (south of Maple, east of 151st Street West)(District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The City Council approved the water distribution system and sanitary sewer improvements in Auburn Hills 16th Addition on March 21, 2006.

Analysis: The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of water distribution system and sanitary sewer in Auburn Hills 16th Addition. Per Administrative Regulation 1.10, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to Baughman will be on a lump sum basis of \$36,900 and will be paid by special assessments.

Goal Impact: This agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of sanitary sewer and water improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

Attachments: Agreement

AGREEMENT for PROFESSIONAL SERVICES between THE CITY OF WICHITA, KANSAS, and BAUGHMAN COMPANY, P.A., for AUBURN HILLS 16TH ADDITION

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BAUGHMAN COMPANY, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

WATER DISTRIBUTION SYSTEM NO. 448 90122 serving Lots 25 through 76, Block A; Lots 32 through 51, Block G, Auburn Hills 16th Addition (south of Maple, east of 151st Street West) (Project No. 448 90122).

LATERAL 50, COWSKIN INTERCEPTOR SEWER from serving Lots 25 through 76, Block A; Lots 8 through 14, Block G, Lots 22 through 51, Block G, Auburn Hills 16th Addition (south of Maple, east of 151st Street West) (Project No. 468 84090).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Auburn Hills 16th Addition and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.

D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.



H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory  
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### III. THE CITY AGREES:

A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.

- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.
- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

#### IV. PAYMENT PROVISIONS

A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 90122	\$14,300.00
Project No. 468 84090	<u>\$22,600.00</u>
TOTAL	\$36,900.00

B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:

1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
2. Additional design services not covered by the scope of this agreement.
3. Construction staking, material testing, inspection and administration related to the PROJECT.
4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

#### V. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

Carlos Mayans, Mayor

SEAL:

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary Rebenstorf, Director of Law

BAUGHMAN COMPANY, P.A.

(Name & Title)

ATTEST:

## SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22” x 36” mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

### A. PHASE I - PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.
2. Soils and Foundation Investigations. The CITY’S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER’S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT’s plans and proposed special provisions shall address the requirements included in the City’s Administrative Regulations 78, “Cleanup, Restoration or Replacement Following Construction.” Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 ½”), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.

5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.
6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.
7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.
8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
9. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.
  - a. Plan Development for the water improvements by June 26, 2006.  
(Project No. 448 90122).
  - b. Plan Development for the sewer improvements by July 24, 2006.  
(Project No. 468 94090).

**Agenda Item No. 12a.**

CITY OF WICHITA  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0574

TO: Mayor and City Council Members

SUBJECT: Acquisition of 515 South Webb Road for the East Kellogg Improvement Project (District II)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: In October 1998, staff was instructed to pursue purchases on an opportunity basis or to preserve the corridor along East Kellogg to K-96. Opportunity purchases occur when a property that will be required for a future project is offered for sale on the open market. The Clubhouse Inn at 515 South Webb Road is one such property. The planned expansion of Kellogg will require the northerly portion of the site, including part of the building. The facility is a 120-unit limited service motel located on a 2.76-acre site.

Analysis: The property was listed for sale for \$4,250,000. The City had the property appraised and the appraiser valued the property at \$3,200,000. The owner has agreed to sell the facility with all furniture, fixtures and equipment, to the City for \$3,300,000. Clubhouse Inn has agreed to allow the continued use of the franchise at the current fee rate of 3% of revenues. Prism Hospitality will manage the property for \$5,500 per month. The transfer of ownership will not affect day-to-day operations of the facility. The property will be operated as a lodging facility and revenue collected by the City until such time as the property is needed for the highway project.

Financial Considerations: The Capital Improvement Program includes funds for acquisitions. The funding source will be local sales tax revenues. A budget of \$3,400,000 is requested. This includes \$3,300,000 for the acquisition, and \$100,000 for closing costs, license and franchise transfer costs, account start up costs, surveys and title insurance.

Goal Impact: Ensure efficient infrastructure by developing and maintaining dependable transportation systems.

Legal Considerations: The Law Department has approved the contracts as to form.

Recommendation/Action: It is recommended that the City Council approve the budget, the real estate purchase contract, the management agreement and the lease agreement; and authorize all necessary signatures.

**Agenda Item No. 12b.**

CITY OF WICHITA  
City Council Meeting  
June 6, 2006  
Agenda Report No. 06-0576

TO: Mayor and City Council

SUBJECT: Partial Acquisition of Land for Right-of-Way at 7717 West 37th Street North (District V)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: In January 2006, staff was instructed to pursue acquisition of several tracts of land for roadway and storm water drainage improvements along West 37th Street between Ridge Road and Tyler Road. There are five tracts required for the project. These are strip acquisitions along the north line of three residentially zoned parcels and two commercially zoned parcels. The owners of the commercial parcels have agreed to donate the necessary right-of-way and easements. On April 25, 2006 the City Council approved acquisition of the residential properties through eminent domain and staff was instructed to continue the negotiations.

The project requires 9,525.3 square feet from the property at 7717 West 37th Street North. This parcel has approximately 35 acres and is improved with a single family residence and out buildings. The improvements are distanced from the road and will not be impacted by the project. There are some trees and landscaping within the proposed acquisition area.

Analysis: The tract at 7717 West 37th Street was appraised at \$7,100. This includes \$3,000 (\$.315 per square foot) for the land plus damages. The owner rejected this offer and countered at \$23,150 based on a land value of \$2.00. The owner has agreed to accept the City's counter offer of \$13,150 which is \$1.00 per square foot for the land and \$3,625 as damages to trees, landscaping and a refileing penalty Conservation Reserve Program (CRP).

Financial Considerations: A budget of \$13,900 is requested for the acquisition. This amount includes \$13,150 for the acquisition and \$750 for closing costs and title insurance. The funding source is General Obligation Bonds and Federal Grants administrated by the Kansas Department of Transportation.

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastrucutre as this area is rapidly growing.

Recommendation/Action: It is recommended that the City Council 1) Approve the Real Estate Purchase Contract; 2) Approve the budget and 3) Authorize the necessary signatures.

### **Agenda Item No. 13.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0577

TO: Mayor and City Council Members

SUBJECT: 2005 Comprehensive Annual Financial Report

INITIATED BY: Department of Finance

AGENDA: Consent

Recommendation: File the report.

Background: Kansas state law requires an annual audit of all City accounts to be performed by an independent certified public accounting firm at least annually. Additionally, an audit of the City's federal forfeiture program is required by the Bureau of Justice each year. The Comprehensive Annual Financial Report (CAFR) and the report on compliance required by the Bureau of Justice are for the year ended December 31, 2005.

For the third year, the 2005 CAFR incorporates the specific requirements of the water and sewer revenue bond covenants, eliminating the necessity of a separate publication by the Water and Sewer Department.

Analysis: The City's Comprehensive Annual Financial Report is designed to provide information needed by interested parties to gain an understanding of the government's financial position, results of operations and cash flows. The independent certified public accounting firm of Allen, Gibbs & Houlik, L.C. issued their opinion that the general purpose financial statements present fairly, in all material respects, the financial position of the City as of December 31, 2005, and the results of its operations and the cash flows of its business-type activities and component unit in conformity with generally accepted accounting principles. The Wichita Public Building Commission is considered a component unit and has been appropriately reflected in the financial statements as part of the financial reporting entity.



The Government Finance Officer's Association (GFOA) of the United States and Canada awarded a Certificate of Achievement for Excellence in Financial Reporting to the City for its Comprehensive Annual Financial Report for the year ended December 31, 2004. In order to be awarded a Certificate of Achievement, a government must publish an easily readable and efficiently organized CAFR, with content that conforms to program standards. The 2004 award represents the 32nd consecutive year in which the City has earned this award. Staff believes that the 2005 CAFR continues to meet GFOA standards for certification and the City has applied for this recognition.

**Financial Considerations:** The 2005 CAFR reports the financial status of the City's funds as of December 31, 2005.

**Goal Impact:** The Internal Perspective is advanced with the 2005 Comprehensive Annual Financial Report, and the opinion and reports of the independent auditors, by fairly reporting the financial condition of the City to the City Council, the Citizens of Wichita, and to investors. In addition, the report demonstrates legal and budgetary compliance with applicable laws and ordinances for report year.

**Legal Considerations:** Kansas law requires an annual audit of City financial records by a certified public accounting firm (K.S.A. 75-1122) in accordance with the minimum standard audit program (K.S.A. 75-1123).

**Recommendations/Actions:** It is recommended that the City Council receive and file the 2005 Comprehensive Annual Financial Report and the Independent Accountants' report regarding internal control and compliance with administration of major federal programs for the year ended December 31, 2005.

## **Agenda Item 14.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0579

TO: Mayor and City Council

SUBJECT: Memorandum of Understanding with Breakthrough Club

INITIATED BY: Wichita Transit

AGENDA: Consent Agenda

Recommendation: Approve the Memorandum of Understanding between the Breakthrough Club and Wichita Transit.

Background: The Access to Jobs program provides rides to and from work for low-income workers. Since the start of the program in October 2000, Access has provided 506,603 rides. By entering into an interagency agreement with the Breakthrough Club, Wichita Transit estimates 1,000 more rides a year to low-income workers. This is the standard Memorandum of Understanding that we use with agencies that want to purchase rides through the Access program.

Analysis: Part of the Access to Jobs grant is to provide half the cost of the rides that agencies offer low-income clients when they are trying to enter or re-enter the work force. The other half of those expenses are borne by the agency.

Financial Considerations: The Access to Jobs rides will be purchased with grants from FTA (50%) and from the Breakthrough Club (50%). No city funds will be involved in the Access rides. The Finance Department has approved the MOU.

Goal Impact: The MOU impacts the goal, "Ensure Efficient Infrastructure." It impacts the indicator "Maintain safe and dependable transportation systems." Entering into this MOU, will allow us to transport more low-income clients to work and back in a safe, cost effective and dependable manner.

Legal Consideration: The City's Law Department has approved the MOU prior to execution as to form.

Recommendations/Actions: It is recommended that the City Council approve the Memorandum of Understanding and authorize the necessary signatures.

## **Agenda Item No. 15.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0580

TO: Mayor and City Council

SUBJECT: Trustee Request to Sell IRB Property; Series VII, 1997 and XII, 1999  
(Old Town Center) (District VI)

INITIATED BY: Law Department

AGENDA: Consent

Recommendation: Adopt the attached Resolution.

Background: In 1997 and 1999, the City of Wichita issued separate series of Taxable Industrial Revenue Bonds (Series VII-a and VII-B, 1997 and Series XII, 1999) to finance acquisition and renovation of the old Maasco Building, to be operated as the Old Town Center office building. All of the bonds went into default, and the Trustee filed a court action in 2004 to obtain possession of the property. Pursuant to court order, the Trustee obtained possession and has been attempting to sell the property for the benefit of the Bondholders.

The Trustee has now signed a conditional contract to sell the property to Remington Commercial Advisors, LLC, contingent upon a favorable Bondholder poll, and approval by the District Court and the City of Wichita. The Trustee has until June 12, 2006 to obtain the approvals, which necessitated setting this item on the instant City Council agenda. Because the result of the Bondholder poll and the request for court approval were not yet known as of the date the agenda report was due, the City approval is framed as conditional upon the approval by Bondholders (usually determined by a the holders of a majority of the Bonds, by principal amount) and the District Court.

Analysis: The Trustee in its professional fiduciary opinion believes that the sale (which, at \$2,100,000 is near a 2002 appraised value of the property) represents the best hope of any further recovery for the holders of the defaulted Bonds.

Financial Considerations: Costs of the sale will be covered from the sales proceeds, and hence, it will be without financial cost to the City.

Goal Impact: Economic Vitality and Quality of Life. Cooperating with the Trustee to assist Bondholder recovery in a defaulted IRB issue is a necessary part of preserving the credibility and integrity of the City's IRB program for future projects.

Legal Considerations: The City Attorney's Office has reviewed and approved the forms of the Special Warranty Deed, Quitclaim Bill of Sale and Assignment of Leases attached to the Resolution. The Trustee is bound by the powers and duties specified in the Indenture, and is under a fiduciary duty to manage and dispose of trust property in accordance with the best interests of the Bondholders. In view of the sale price that will be realized through the sale recommended by the Trustee, and the Trustee's decision to hold the sale only if the Trustee's recommendation is approved by a favorable Bondholder poll and by the Court, the City's approval of the proposed sale, subject to these same conditions, is lawful and appropriate.

Recommendations/Actions: Adopt the Resolution, conditionally approving the Trustee's request to sell property and the execution and delivery of a Special Warranty Deed, Quitclaim Bill of Sale and Assignment of Leases substantially in accordance with the forms attached to the Resolution as exhibits, and also conditionally approving the execution and delivery of any further documents reasonably necessary to accomplish the sale as requested by the Trustee.

Attachments: Resolution and forms of Special Warranty Deed, Quitclaim Bill of Sale and Assignment of Leases.

RESOLUTION NO.

A RESOLUTION APPROVING THE REQUEST OF CENTRAL BANK & TRUST Co. ("TRUSTEE"), TO CONVEY CERTAIN PROPERTY TO REMINGTON COMMERCIAL ADVISORS, LLC, APPROVING THE EXECUTION AND DELIVERY OF A SPECIAL WARRANTY DEED, QUITCLAIM BILL OF SALE AND ASSIGNMENT OF LEASES, AND APPROVING THE EXECUTION AND DELIVERY OF ANY FURTHER DOCUMENTS REASONABLY NECESSARY TO ACCOMPLISH THE SALE AS REQUESTED BY THE TRUSTEE.

WHEREAS, the City of Wichita, Kansas (the "City") has previously issued its Industrial Revenue Bonds, Series VII, 1997 and Series XII, 1999 (collectively, the "Bonds"), in the respective original principal amounts of \$2,260,000 and \$485,000, in connection with the acquisition and improvement of the real property at 800 E. First Street by Old Town Center, L.L.C., for use as an office building facility (the "Project"); and

WHEREAS, the Bonds went into default, and in 2004, Central Bank & Trust Co., as the Trustee, filed a lawsuit in the Eighteenth Judicial District Court, Sedgwick County, Kansas (Case No. 04 CV 2346) in the course of which, it took possession of the Project and thereafter operated (and now, has marketed) the Project for the benefit of the Bondholders; and,

WHEREAS, the Trustee has determined that it is in the best interest of the Bondholders to accept an offer from Remington Commercial Advisors, LLC, to purchase the property for the sum of \$2,100,000, and has requested that the City Council authorize the transfer of the property, contingent upon a favorable response of polled bondholders and the approval of the District Court; and,

WHEREAS, the Trustee has indicated that the arrangement for sale of the property is presently dependent upon having all necessary authorizations and approvals in place by June 12, 2006.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Approval of Conveyance. The conveyance of the City's interest in the abovementioned real property to Remington Commercial Advisors, LLC is hereby approved and authorized, contingent upon the favorable response of bondholders polled by the Trustee, and upon the approval of the District Court.

Section 2. Authorization of Documents. Subject to the conditions referenced in Section 1, above, the City hereby authorizes and approves the execution of a Special Warranty Deed, Quitclaim Bill of Sale and Assignment of Leases, in substantially the forms attached as exhibits hereto (with such changes or corrections as the Mayor may approve, such approval to be evidenced by his signature on the corrected document), in furtherance of the conveyance authorized in the preceding section.

Section 3. Execution of Documents. The Mayor is hereby authorized and directed to execute the Special Warranty Deed, Quitclaim Bill of Sale and Assignment of Leases, and the City Clerk is hereby authorized and directed to attest to such documents, for and on behalf of the City.

Section 4. Delivery of Documents. Subject to the conditions referenced in Section 1, above, the Mayor, City Clerk or other appropriate officers, agents or representatives of the City, are hereby authorized and directed to deliver the above-referenced Special Warranty Deed, Quitclaim Bill of Sale and Assignment of Leases, in accordance with the contemplated closing schedule for the sale.

Section 5. Further Authority. The Mayor and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates as may be necessary to transfer the Project, terminate all interest of the City therein, and carry out the intent of this Resolution.

ADOPTED by the governing body of the City of Wichita, Kansas, this 6th day of June, 2006.

CITY OF WICHITA, KANSAS  
Carlos Mayans, Mayor

ATTEST:  
City Clerk

(SEAL)

Approved as to Form:  
Gary E. Rebenstorf  
Director of Law

## Assignment of Leases

THIS ASSIGNMENT OF LEASES is dated and delivered as of the \_\_\_ day of \_\_\_\_\_, 2006, from the City of Wichita, Kansas (the "City"), a municipal corporation of Sedgwick County, in the State of Kansas and Central Bank and Trust Co. solely in its capacity as the trustee (hereinafter referred to as the "Trustee") of the City of Wichita, Taxable Industrial Revenue Bonds, Series VII-A, 1997, Subordinated Taxable Revenue Bonds Series VII-B, 1997, and Subordinated Taxable Industrial Revenue Bonds Series XII, 1999 (Old Town Center, L.L.C.) as transferors to Remington Commercial Advisors, LLC, as transferee.

WHEREAS, this Assignment of Leases is given pursuant to that certain Contract dated as of April 28, 2006, (the "Contract"), by and between the Trustee, in its capacity as Trustee of the Bonds, and not in its individual capacity, as seller and Remington Commercial Advisors, LLC as Buyer and pursuant to which, inter alia, the City and Trustee agreed in connection with the sale of the Subject Real Property (as defined in the Contract) to deliver to Remington Commercial Advisors, LLC an Assignment of Leases described therein. All capitalized terms used herein which are not otherwise defined have the same meanings assigned to them in the Contract.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Trustee do hereby assign unto Remington Commercial Advisors, LLC any right, title and interest the City and Trustee may have in and to any leases of any portion of the Subject Real Property.

IN WITNESS WHEREOF, this Assignment of Leases has been duly executed and delivered as of the day and year first above written.

CITY OF WICHITA, KANSAS

CENTRAL BANK AND TRUST CO.  
As Trustee and not in its individual  
capacity  
Richard Chambers, Sr. Vice President

ATTEST:

City Clerk

STATE OF KANSAS)

)

ss:

SEDGWICK COUNTY)

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2006, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came \_\_\_\_\_, \_\_\_\_\_ of the City of Wichita, Kansas, and \_\_\_\_\_, City Clerk of said City, who are personally known to me to be the same persons who executed the foregoing instrument of writing, and duly acknowledged the execution of the same on behalf of the City of Wichita, Kansas.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last above written.

\_\_\_\_\_  
Notary Public

My Appointment Expires:

STATE OF \_\_\_\_\_ )

)

ss:

\_\_\_\_\_ COUNTY )

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2006, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Richard Chambers, in his capacity as Sr. Vice President of Central Bank and Trust Co., as Trustee and not in its individual capacity, who is personally known to me to be the same person who executed the foregoing instrument of writing, and duly acknowledged the execution of the same on behalf of Central Bank and Trust Co., as Trustee.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last above written.

\_\_\_\_\_  
Notary Public

My Appointment Expires:



## QUIT CLAIM BILL OF SALE

THIS QUIT CLAIM BILL OF SALE is dated and delivered as of the \_\_\_ day of \_\_\_\_\_, 2006, from the City of Wichita, Kansas (the "City"), a municipal corporation of Sedgwick County, in the State of Kansas and Central Bank and Trust Co. solely in its capacity as the trustee (hereinafter referred to as the "Trustee") of the City of Wichita, Taxable Industrial Revenue Bonds, Series VII-A, 1997, Subordinated Taxable Revenue Bonds Series VII-B, 1997, and Subordinated Taxable Industrial Revenue Bonds Series XII, 1999 (Old Town Center, L.L.C.) as transferors to Remington Commercial Advisors, LLC, as transferee.

WHEREAS, this Quit Claim Bill of Sale is given pursuant to that certain Contract dated as of April 28, 2006, (the "Contract"), by and between the Trustee, in its capacity as Trustee of the Bonds, and not in its individual capacity, as seller and Remington Commercial Advisors, LLC as Buyer and pursuant to which, inter alia, the City and Trustee agreed in connection with the sale of the Subject Real Property (as defined in the Contract) to deliver to Remington Commercial Advisors, LLC a Quit Claim Bill of Sale to the assets described herein. All capitalized terms used herein which are not otherwise defined have the same meanings assigned to them in the Contract.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Trustee do hereby quit claim unto Remington Commercial Advisors, LLC any right, title and interest the City and Trustee may have, if any, in and to any personal property owned by the City or Trustee located on and used in connection with the management, operation and/or maintenance of the Subject Real Property.

IN WITNESS WHEREOF, this Bill of Sale has been duly executed and delivered as of the day and year first above written.

CITY OF WICHITA, KANSAS

CENTRAL BANK AND TRUST CO.

As Trustee and not in its individual  
capacity

Richard Chambers, Sr. Vice President

ATTEST:  
City Clerk

STATE OF KANSAS)

) ss:

SEDGWICK COUNTY)

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2006, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came \_\_\_\_\_, \_\_\_\_\_ of the City of Wichita, Kansas, and \_\_\_\_\_, City Clerk of said City, who are personally known to me to be the same persons who executed the foregoing instrument of writing, and duly acknowledged the execution of the same on behalf of the City of Wichita, Kansas.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last above written.

\_\_\_\_\_  
Notary Public

My Appointment Expires:

STATE OF \_\_\_\_\_ )

) ss:

\_\_\_\_\_ COUNTY )

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2006, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Richard Chambers, in his capacity as Sr. Vice President of Central Bank and Trust Co., as Trustee and not in its individual capacity, who is personally known to me to be the same person who executed the foregoing instrument of writing, and duly acknowledged the execution of the same on behalf of Central Bank and Trust Co., as Trustee.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last above written.

\_\_\_\_\_  
Notary Public

My Appointment Expires:

#### SPECIAL WARRANTY DEED

On this \_\_\_\_ day of \_\_\_\_\_, 2006,

The City of Wichita, County of Sedgwick, State of Kansas ("Grantor"), CONVEY(S) AND GRANT(S) to

("Grantee") all of said Grantor's interest in the following-described real estate (the "Property") in Sedgwick County, Kansas:

The South 117 feet of Lot 10, except the East 20 feet thereof, on Mead Avenue, in Wichita, Sedgwick County, Kansas, together with vacated East 10 feet of Mead Avenue adjoining said property on the West.

For the sum of Ten Dollars (\$10.00) and other good and valuable consideration.

SUBJECT TO: Easements, restrictions and reservations of record including the restriction that no existing building nor any building which is constructed or placed on the premises, either temporarily or permanently, shall be used for the housing or operation of any multi-game, casino style gambling.

Grantor, for Grantor and Grantor's successors, covenants that Grantor is lawfully seized of Grantor's interest in the Property and has good right to convey Grantor's interest in the Property and guarantees the quiet possession of the Property against the claims of those claiming any right, interest or title through Grantor, except as may be described above, and further covenants that the Property is free from all encumbrances created by Grantor, except as may be described above, and Grantor will warrant and defend the Property against all lawful claims of those claiming any right, interest or title through Grantor, except as may be described above; but Grantor does not warrant title against those claiming a right, interest or title that arose prior to, or separate from, Grantor's interest in the Property.

City of Wichita Sedgwick County, Kansas  
Printed Name: \_\_\_\_\_

STATE OF KANSAS            )  
) SS  
COUNTY OF SEDGWICK    )

This instrument was acknowledged before me on \_\_\_\_\_, 2005, by \_\_\_\_\_, as \_\_\_\_\_ of the City of Wichita, Kansas.

Notary Public

My Appointment Expires:

Notary Printed Name:

To: Carlos Mayans Mayor  
From: Jay Banasiak, General Manager  
Date: February 9, 2005  
Re: Access to Jobs Service  
MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding serves as the formal basis for assumption of the following performance requirements by the Wichita Transit, using funds provided under the Welfare to Work provisions of Title IV, Part A of the Social Security Act, as amended.

It is mutually agreed by and between the Director of Wichita Transit and the President Breakthrough Club of the Mental Health Association of South Central Kansas (MHA), that Wichita Transit will provide all services necessary to carry out the Performance Criteria outlined in Attachment A, and accept payment as proscribed in that document. In addition, WT will undertake the entire Access to Jobs program within the \$1,450,000 budget outlined in Attachment A.

During the administration of activities covered by this Memorandum, Wichita Transit agrees to comply with all applicable laws, regulations, and policies of the United States, the State of Kansas and the city of Wichita, including, but not limited to the following:

1. Equal Opportunity
  - a. Title VI, Civil Rights Act of 1964
  - b. Title IV, Part A of the Social Security Act, as amended.
  - c. Executive Order 11246, as amended.
  - d. ADA of 1990
  - e. City of Wichita Executive Order No. 1.
  - f. City of Wichita Administrative Regulation No. 23.
2. Welfare to Work
  - a. Title IV, Part A of the Social Security Act, as amended.
3. Access to Jobs
  - a. TEA-21, Section 3037
4. Other
  - a. Federal Labor Standards.
  - b. Clean Air Act, as amended.
  - c. City of Wichita Administrative Regulations, as applicable
  - d. FTA Drug Free Workplace and Drug and Alcohol Testing Policy

Any significant change in scope and intent of this Memorandum of Understanding shall be considered and approved or disapproved by the City Council. A significant change is defined as a change in program intent, program beneficiaries, basic program guidelines, and any budget or funding change over \$10,000. Any change approved by the City Council shall have the full force and effect as all other provisions of the Memorandum of Understanding as though originally fully set out herein.

Approval of signatories of the Memorandum of Understanding is not necessary for changes approved by the City Council. Changes or amendments to this Memorandum of Understanding not submitted to the City Council for approval must be in writing and have the written approval of all signatories of this agreement.

Approval by the Director of Finance and the City Manager constitutes a directive to implement this project.

#### Signatories

This memorandum of agreement shall remain in force for the duration of this grant and subsequent renewal grants, subject to amendments approved by signatories, and termination authority stated in the attachment.

Barb Andres  
Mental Health Association of Breakthrough Club South  
Central Kansas General Manager

Jay Banasiak  
General Manager, Wichita Transit

CITY COUNCIL -WICHITA, KS  
Carlos Mayans  
Mayor

ATTEST:  
Karen Sublett, City Clerk

APPROVED AS TO FORM:  
Gary Rebenstorf  
City of Wichita , Department of Law

## **Agenda Item No. 16.**

CITY OF WICHITA  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0581

TO: Mayor and City Council

SUBJECT: Renaming of Bike Path (District I, III, IV and VI)

INITIATED BY: Department of Park and Recreation

AGENDA: Consent

Recommendation: Approve the renaming of bike path.

Background: Thomas P. Allen, Jr., a former Park and Recreation Director for the City of Wichita, started his employment as a Recreation supervisor in 1951, became a Recreation Superintendent in 1961, and was promoted to Director in 1978, and served in that capacity until his retirement in 1984. On March 6, 2006, a letter was sent from Mr. Allen's family requesting that a park project or park be named in recognition of Mr. Allen's years of service to the City. On May 13, 2006, the Park Board approved the renaming of the "River Corridor Bike Path" to be named the "Tommy Allen River Corridor Bike Path".

Analysis: Though other park sites were considered, this pathway was selected to recognize Mr. Allen's contributions in the development of the bike paths along the river corridor. By renaming the path project it also acknowledges his long and distinguished career responsible for the development of many other important park projects throughout the Wichita Park system.

Financial Considerations: None.

Goal Impact: Renaming the park pathway reflects the importance to recognize an individual who contributed a great deal to the Wichita Park System. The legacy that he built through his leadership and many contributions continue to have a positive impact to the quality of life for Wichita's citizens and visitors.

Legal Considerations: None.

Recommendation/Action: It is recommended that the City Council approve the renaming of the River Corridor Bike Path to the Tommy Allen River Corridor Bike Path.

**Agenda Item No. 17.**

CITY OF WICHITA  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0582

TO: Mayor and City Council

SUBJECT: Daryl Spencer Baseball Field (District IV)

INITIATED BY: Department of Park and Recreation

AGENDA: Consent

Recommendation: Approve the naming of the main baseball field at West Side Athletic Field to the “Daryl Spencer Baseball Field”.

Background: Born in 1928, Daryl Spencer worked his way to the major leagues through hard work, determination and perseverance. An East High School graduate and only a one year letterman during his senior season, Mr. Spencer was not even visited by a professional scout until he signed a minor league contract. His hard work paid off by enjoying a successful career with the Giants, Cardinals, Dodgers and Pirates over a 10-year period. This professional “major league” career is the longest of any Wichita-born baseball player. He still holds important major league records including having the most home runs made by a first year middle infielder in the National League. In addition, he played in four minor league seasons, seven in Japan in a career that spanned more than two decades. In recognition of Mr. Spencer’s career and his native ties to Wichita, the large field at West Side Athletic Field is recommended to be named the “Daryl Spencer Baseball Field”.

Analysis: Naming the park for Mr. Spencer is consistent with the naming of other facilities such as Barry Sanders Football Field, Antoine Carr Basketball Courts and the Lynette Woodard Recreation Center. By contrast, there is not a comparably named baseball field facility. Acknowledgement of Mr. Spencer’s career as an accomplished professional baseball player makes renaming the field an appropriate recommendation. Mr. Spencer is still living today and it would be fit for him to be honored and to participate in a special ceremony.

There are no financial or legal considerations:

Goal Impact: This acknowledges and honors a special baseball athlete and instills local pride within the community.

Recommendation/Action: It is recommended that the City Council approve the naming of the large baseball field at West Side Athletic Field to be named the “Daryl Spencer Baseball Field”.

## **Agenda Item No 18.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0583

TO: Mayor and City Council Members

SUBJECT: Sale of Former Magdellan School 6355 Willowbrook (District II)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the sale.

Background: The City acquired the Church of the Magdellan as part of the Kellogg/Woodlawn improvement project. The church proper was removed for the project and the south part of the site utilized for highway right of way. The remainder contains approximately 4.26 acres and is developed with the former rectory building and a 55,110 square foot building that formerly housed Magdellan School.

Analysis: The property was marketed on the Internet and through information sent to the real estate community. Several proposals were received. After negotiating with the various buyers, Heartland Community Church was selected as the buyer based on use and offer price. Heartland has offered \$400,000 for the property. They intend to use the facility as a church and school. There is an tenant leasing currently leasing a portion of the school. Heartland has agreed to assume the lease and continue the tenancy for the term of the lease.

Financial Considerations: The City will receive cash consideration for the sale of the property and the City will be relieved of maintenance responsibility.

Goal Impact: The proposed sale insures efficient infrastructure by optimizing public assets. As this parcel is surplus to the City's needs, the sale will provide a return of a portion of the City's investment.

Legal Considerations: The Law Department approved the contract as to form.

Recommendations/Actions: It is recommended that the City Council; 1) Approve the Real Estate Purchase Contracts; and authorize all necessary signatures.



## **Agenda Item No. 19.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0585

TO: Mayor and City Council

SUBJECT: Prisoner Reentry Program Memorandum of Agreement (All Districts)

INITIATED BY: Housing and Community Services and Police Departments

AGENDA: Consent

Recommendation: Approve the Memoranda of Agreement with the Kansas Department of Corrections (DOC) for delivery of services to offenders preparing for release from DOC facilities.

Background: On March 8, 2005, the City Council approved a pilot project to serve 150 high-risk offenders scheduled for release in Sedgwick County. The project was originally presented in concept by the Task Force on Offender Reentry in 2004, at which time staff was directed to discuss the project with District Advisory Boards. Following those discussions in which all DABs voted in support of the project, it was presented for Council approval on March 8, 2005. The Council approved the project and authorized staff to work with the Kansas Department of Corrections and Sedgwick County to determine the extent and scope of the City's involvement in this project.

The staff work has resulted in the development of a Prisoner Reentry Project which will be funded with cash contributions from the State Department of Corrections and Sedgwick County, and in-kind support from the City of Wichita. The State/County funds will support salaries and equipment for two City of Wichita positions for three years. The City's in-kind match will include the value of office space, miscellaneous office supplies and equipment, and staff supervision. The City Council received a workshop presentation on March 28, 2006, on the Reentry program and companion neighborhood improvement initiative (Transforming Neighborhoods).

On April 18, 2006, the City Council authorized creation of two positions to implement the program.

Analysis: The Prisoner Reentry Program will provide supervision and support services to 125-150 offenders who are returning to Wichita. The offenders are being identified from among the Kansas prison population and will receive intensive counseling and training prior to their return. The two funded City positions, Housing Landlord Leasing Specialist (subject to final classification by Human Resources) and Police Officer, will work with the offenders to facilitate their reintegration.

Legal Considerations: The City Attorney's office has reviewed and approved the Memorandum of Agreement as to form.

Goal Impact: These Memoranda will contribute to the Safe and Secure Community goal.

Financial Considerations: The City has no financial obligation other than as identified as in-kind match. The State/County funding commitment is \$60,000 for the Housing position and \$71,250 for the Police position, as spelled out in the Memoranda of Agreement.

Recommendations/Actions: It is recommended the City Council approve the Memoranda of Agreement with the Kansas Department of Corrections (DOC) for delivery of services to offenders preparing for release from DOC facilities.

## **Agenda Item No. 20.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0586

TO: Mayor and City Council

SUBJECT: Municipal Investment Pool Resolution updating authorizations

INITIATED BY: Department of Finance

AGENDA: Consent

Recommendation: Adopt the resolution.

Background: State law, City ordinance and the City's investment policy govern the investment of City funds. The existing investment policy was approved by the City Council in December 2005 and authorizes the option of investing up to 10% of the City's investment portfolio in the State's Municipal Investment Pool (MIP). The City Council authorized the City's participation in the MIP through resolution 04-410 in August 2004.

Analysis: Authorized staff has changed and there is a need to submit an updated list of employees authorized to execute transactions for the Municipal Investment Pool.

Financial Considerations: There is no direct cost to the City for utilizing the Municipal Investment Pool. Interest earnings are distributed monthly and are net of a 25 basis point fee. The City uses the Municipal Investment Pool as a method to invest idle funds on a short-term basis and as needed for liquidity. Funds can be withdrawn from the MIP on demand with same day notification prior to 10:00 a.m., as needed for cash flow purposes.

Goal Impact: The action will impact the Internal Perspective and allows continuation of the City's participation in the MIP and results in increased returns on the investment of short-term idle funds.

Legal Considerations: The resolution has been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council adopt the resolution updating the list of individuals authorized to execute investment transactions within the Municipal Investment Pool and authorize the Mayor to sign.

ATTACHMENT: RESOLUTION

WHEREAS, the undersigned is a municipality, as defined in K.S.A. 12-1675, as amended (the “Participant”), and from time to time has funds on hand in excess of current needs, and

WHEREAS, it is in the best interest of the Participant and its inhabitants to invest funds in investments that yield a favorable rate of return while providing the necessary liquidity and protection of principal; and

WHEREAS, the Pooled Money Investment Board (the “PMIB”), operates the Municipal Investment Pool (MIP), a public funds investment pool, pursuant to Chapter 254 of the 1996 Session Laws of Kansas, and amendments thereto.

NOW THEREFORE, be it resolved as follows:

1. That the municipality designated below approves the establishment of an account in its name in the MIP for the purpose of transmitting funds for investment, subject to the MIP Participation Policy adopted by the Pooled Monday Investment Board, and municipality acknowledges it has received a current copy of such Participation Policy. The Participant’s taxpayer identification number assigned by the Internal Revenue Service is 48-6000653.
2. That the following individuals, whose signatures appear directly below, are officers or employees of the Participant and are each hereby authorized to transfer funds for investment in the MIP and are each authorized to withdraw funds from time to time, to issue letters of instruction, and to take all other actions deemed necessary or appropriate for the investment of funds:

List officers or employees authorized to execute documents and make deposits and withdrawals:

Shawn Henning	City Treasurer
Name	Title
Terry L. Feaster	Cash Manager
Name	Title
Catherine Gilley	Debt Manager
Name	Title

3. Notice required by the PMIB's Municipal Investment Pool Participant Policy shall be provided to:

Contact Person: Shawn Henning, City Treasurer

Address: 455 N. Main, 12th Floor  
Wichita, KS 67202

Telephone: (316) 268-4444

Fax No. (316) 268-4656

4. That this Resolution and its authorization shall continue in full force and effect until amended or revoked by the Participant and until the PMIB receives a copy of any such amendment or revocation, the PMIB is entitled to rely on the same.

The resolution is hereby introduced and adopted by the Participant at its regular/special meeting held on the 6th day of June 2006.

Carlos Mayans, Mayor

ATTEST

Karen Sublett, City Clerk

Approved as to form:\

Gary Rebenstorf, City Attorney

## **Agenda Item No. 21.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0587

TO: Mayor and City Council

SUBJECT: Equus Beds Recharge Project – Joint Funding Agreement with U.S.G.S.

INITIATED BY: Water & Sewer Department

AGENDA: Consent

Recommendation: Approve the Joint Funding Agreement.

Background: On September 9, 1997, the City Council approved a Joint Funding Agreement with the United States Department of Interior, Geological Survey (USGS). The Agreement allows the USGS to assist the City in collecting and analyzing water samples needed to monitor the success and effects of the Equus Beds Recharge Demonstration Project. Subsequent agreements in 2000 and 2005 extended the services of the USGS to assist the City in water quality sampling and analysis. USGS has worked with the City in the past to help monitor the impacts of recharging the aquifer, and has offered a Joint Funding Agreement to help participate in this phase of the project.

Analysis: On January 31, 2006, the Kansas Department of Health and Environment issued a Class V permit for the first phase of the Equus Beds Aquifer Storage and Recovery Project. The Equus Beds Aquifer Storage and Recovery Project (ASR) is the first of its kind in Kansas; thus, regulatory agencies have imposed extensive monitoring protocols to assure that the recharge activities do not have a negative impact on the aquifer. The Class V permit includes a monitoring program for the source water used to recharge the aquifer as well as a monitoring program that uses wells located near each recharge site. Thirty (30) monitoring wells are required, as well as collecting samples from domestic wells near the project area.

The Class V permit requires the City to monitor all sites prior to beginning recharge activities, then a quarterly monitoring program the first year, a semi-annual monitoring program in the second year and an annual monitoring the third year. It is anticipated that if the monitoring program shows the project to be safe, monitoring requirements in future phases will be less intense.

Financial Considerations: Cost for the program through fiscal year 2009 is \$844,414. The City will pay \$644,415 with the USGS assuming \$200,000 in cost-share, or 23 percent. Construction has been funded from the CIP; however, the monitoring will be paid for from the Production & Pumping Divisions' operations budget.

The Production and Pumping operations budget needs to be increased by \$138,000 in 2006, increased by \$191,000 in 2007, and the 2008 budget increased by \$158,000 to pay for the program.

Goal Impact: Ensure efficient infrastructure by providing reliable, compliant and secure utilities.

Legal Considerations: The Law Department has approved the Joint Funding Agreement as to form.

Recommendations/Actions: It is recommended that the City Council: 1) approve the Joint Funding Agreement; 2) approve the increase in operating budget; and 3) authorize the necessary signatures.

## **Agenda Item No. 22.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0588

TO: Mayor and City Council

SUBJECT: Transfer of CIP Funds

INITIATED BY: Water & Sewer Department

AGENDA: Consent

Recommendation: Approve the transfer of funds.

Background: Each year the City Council authorizes Water & Sewer Department Capital Improvement Program expenditures for:

- reconstructing old sanitary sewers (S-4)
- installing sewer mains for future development (S-5)
- installing water mains to meet the needs of current development (W-65)
- replacing old water mains (W-67)
- Plainview consumer lines (W-70)

Subprojects are defined and identified as necessary, or as development is taking place. When the subproject is defined, the cost is estimated and a budget is set up using funds from the appropriate project. When the subproject is complete, the remaining budget is transferred to the main project, available to be used for other subprojects initiated during the same year. Not all projects are completed in one fiscal year; therefore, not all of the funds approved are able to be spent in the year for which they are approved.

Analysis: Staff requests authorization to transfer 2005 funds remaining in S-4, S-5, W-65, W-67 and

W-70 to the current year's budget, and to amend the bond resolutions for the current year. This will clarify spending and bonding authority for projects not completed in one fiscal year, and for funds remaining when subprojects are completed during a subsequent fiscal year. Most 2005 subprojects are substantially complete and the 2005 projects will be closed. This process avoids the need to over-budget for projects in order to cover the estimated costs, rather than the actual costs.



Financial Considerations: The following amounts were not used in 2005 and are needed in 2006. Transferring these funds will not increase CIP expenditures.

- S-4 \$75,995
- S-5 \$149,464
- W-65 \$3,187,000
- W-67 \$1,787,110
- W-70 \$73,039

Goal Impact: As an Internal Perspective, this is an effective way for maintaining adequate cost accounting. To ensure efficient infrastructure, these projects will provide reliable, compliant and secure utilities.

Legal Considerations: City Council approval is required to transfer CIP budget authority.

Recommendations/Actions: It is recommended that the City Council: 1) approve the transfer of funds; 2) amend the CIP; 3) adopt the amended Resolutions; and 4) authorize the necessary signatures.

Attachments: Resolutions for each of the above-named CIPs.

RESOLUTION NO. 06-

A RESOLUTION AMENDING RESOLUTION NO. 05-667 PERTAINING TO THE RECONSTRUCTION OF OLD SANITARY SEWERS (S-4) IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That Section 1 of Resolution No. 05-667 is hereby amended to read as follows:

“SECTION 1. It is hereby found and determined to be necessary and advisable to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, reconstruction of old sanitary sewers (S-4) (called the “Project”). The total costs of the Project are estimated to be \$2,378,761 exclusive of the cost of interest on borrowed money. Available and unencumbered funds of the Utility will be used to pay a portion of the costs of the Project.”

SECTION 2. That Section 3 of Resolution No. 05-667 is hereby amended to read as follows:

“SECTION 3. It is hereby found and determined to be necessary and advisable to issue revenue bonds of the City, in a total principal amount which shall not exceed two million three hundred seventy-eight thousand seven hundred sixty-one dollars (\$2,378,761) exclusive of the cost of interest on borrowed money, under the authority of the Act, to pay certain costs of the Project, and the expenses of issuing such revenue bonds. Such revenue bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose.”

SECTION 3. That the original of Sections 1 and 3 of Resolution 05-667 is hereby rescinded.

Adopted at Wichita, Kansas, \_\_\_\_\_.

(Seal)

CARLOS MAYANS, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

GARY E. REBENSTORF, Director of Law

A RESOLUTION AMENDING RESOLUTION NO. 05-634 PERTAINING TO THE CONSTRUCTION OF SEWER MAINS FOR FUTURE DEVELOPMENT (S-5) IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That Section 1 of Resolution No. 05-634 is hereby amended to read as follows:

“SECTION 1. It is hereby found and determined to be necessary and advisable to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, construction of sewer mains for future development (S-5) (called the “Project”). The total costs of the Project are estimated to be \$2,649,464 exclusive of the cost of interest on borrowed money. Available and unencumbered funds of the Utility will be used to pay a portion of the costs of the Project.”

SECTION 2. That Section 3 of Resolution No. 05-634 is hereby amended to read as follows:

“SECTION 3. It is hereby found and determined to be necessary and advisable to issue revenue bonds of the City, in a total principal amount which shall not exceed be two million six hundred forty-nine thousand four hundred sixty-four dollars (\$2,649,464) exclusive of the cost of interest on borrowed money, under the authority of the Act, to pay certain costs of the Project, and the expenses of issuing such revenue bonds. Such revenue bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose.”

SECTION 3. That the original of Sections 1 and 3 of Resolution 05-634 is hereby rescinded.

Adopted at Wichita, Kansas, \_\_\_\_\_.

(Seal)

CARLOS MAYANS, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

GARY E. REBENSTORF, Director of Law

RESOLUTION NO. 06-

RESOLUTION AMENDING RESOLUTION NO. 05-635 PERTAINING TO THE CONSTRUCTION OF WATER MAINS FOR FUTURE DEVELOPMENT (W-65) IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That Section 1 of Resolution No. 05-635 is hereby amended to read as follows:

“SECTION 1. It is hereby found and determined to be necessary and advisable to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, construction of water mains for future development (W-65) (called the “Project”). The total costs of the Project are estimated to be \$5,187,000 exclusive of the cost of interest on borrowed money. Available and unencumbered funds of the Utility will be used to pay a portion of the costs of the Project.”

SECTION 2. That Section 3 of Resolution No. 05-635 is hereby amended to read as follows:

“SECTION 3. It is hereby found and determined to be necessary and advisable to issue revenue bonds of the City, in a total principal amount which shall not exceed be five million one hundred eighty-seven thousand dollars (\$5,187,000) exclusive of the cost of interest on borrowed money, under the authority of the Act, to pay certain costs of the Project, and the expenses of issuing such revenue bonds. Such revenue bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose.”

SECTION 3. That the original of Sections 1 and 3 of Resolution 05-635 is hereby rescinded.

Adopted at Wichita, Kansas, \_\_\_\_\_.

(Seal)

CARLOS MAYANS, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

GARY E. REBENSTORF, Director of Law

A RESOLUTION AMENDING RESOLUTION NO. 05-638 PERTAINING TO THE REPLACEMENT AND RELOCATION OF DISTRIBUTION WATER MAINS (W-67) IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That Section 1 of Resolution No. 05-638 is hereby amended to read as follows:

“SECTION 1. It is hereby found and determined to be necessary and advisable to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, replacement and relocation of distribution water mains (W-67) (called the “Project”). The total costs of the Project are estimated to be \$5,337,110 exclusive of the cost of interest on borrowed money. Available and unencumbered funds of the Utility will be used to pay a portion of the costs of the Project.”

SECTION 2. That Section 3 of Resolution No. 05-638 is hereby amended to read as follows:

“SECTION 3. It is hereby found and determined to be necessary and advisable to issue revenue bonds of the City, in a total principal amount which shall not exceed be five million three hundred thirty-seven thousand one hundred ten dollars (\$5,337,110) exclusive of the cost of interest on borrowed money, under the authority of the Act, to pay certain costs of the Project, and the expenses of issuing such revenue bonds. Such revenue bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose.”

SECTION 3. That the original of Sections 1 and 3 of Resolution 05-638 is hereby rescinded.

Adopted at Wichita, Kansas, \_\_\_\_\_.

(Seal)

CARLOS MAYANS, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

GARY E. REBENSTORF, Director of Law

A RESOLUTION AMENDING RESOLUTION NO. 05-633 PERTAINING TO THE PLANEVIEW CONSUMER LINE IMPROVEMENTS W-70) IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That Section 1 of Resolution No. 05-633 is hereby amended to read as follows:

“SECTION 1. It is hereby found and determined to be necessary and advisable to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, Planeview Consumer Line Improvements (W-70) (called the “Project”). The total costs of the Project are estimated to be \$173,039 exclusive of the cost of interest on borrowed money. Available and unencumbered funds of the Utility will be used to pay a portion of the costs of the Project.”

SECTION 2. That Section 3 of Resolution No. 05-633 is hereby amended to read as follows:

“SECTION 3. It is hereby found and determined to be necessary and advisable to issue revenue bonds of the City, in a total principal amount which shall not exceed be one hundred seventy-three thousand thirty-nine dollars (\$173,039) exclusive of the cost of interest on borrowed money, under the authority of the Act, to pay certain costs of the Project, and the expenses of issuing such revenue bonds. Such revenue bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose.”

SECTION 3. That the original of Sections 1 and 3 of Resolution 05-633 is hereby rescinded.

Adopted at Wichita, Kansas, \_\_\_\_\_.

(Seal)

CARLOS MAYANS, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

GARY E. REBENSTORF, Director of Law

## **Agenda Item No. 23.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0589

TO: Mayor and City Council

SUBJECT: 24-inch Water Main in 29th Street North from 119th Street West to 135th Street West – Budget Increase (District V)

INITIATED BY: Water & Sewer Department

AGENDA: Consent

Recommendation: Approve the budget increase.

Background: On April 15, 2003, the City Council approved expenditures for a 24-inch water main to be constructed along 29th Street North from 119th Street West to 135th Street West. The Water Master Plan identified this project as necessary to ensure adequate service levels now and in the future.

Analysis: Bids were opened for construction on April 14, 2006, with the low bid received being \$694,847. The budget for this project was originally set at \$500,000 so a budget increase will be required. The increase is necessary to successfully let the project and have adequate funds for engineering and inspection.

Financial Considerations: Capital Improvement Program project (CIP W-905) was included in the 2003 approved CIP. Due to inflation and the uncertainty of oil prices, the project was not successfully bid for the original projected budget of \$500,000. An increase is required of \$250,000 to bring the total budget to \$750,000. The project will be funded from Water Utility revenues and reserves, and/or a future revenue bond issue.

Goal Impact: The construction of this water line will ensure efficient infrastructure and enhance the quality of life by providing reliable public utilities and water service to citizens that will be adequate and provide for future growth.

Legal Considerations: The Law Department has approved the amended Resolution as to form.

Recommendations/Actions: It is recommended that the City Council approve the budget increase, adopt the Resolution and authorize the necessary signatures.

Attachments: Resolution

## **Agenda Item No. 24.**

City of Wichita

City Council Meeting  
June 6, 2006

Agenda Report No. 06-0590

TO: Mayor and City Council

SUBJECT: Sewage Treatment Plant Media Replacement and Decommission of Drying Beds

INITIATED BY: Water & Sewer Department

AGENDA: Consent

Recommendation: Approve the expenditures.

Background: Drying beds are a mechanism for dewatering wastewater treatment solids. The beds at Plant 1 have not been used for several years and the State of Kansas is requiring the City to close the beds, remove concrete containment walls and cover the units with soil. Enough soil has been accumulated to cover the beds, but until a recent inspection, Staff was not aware that the concrete would have to be removed. Quotes for the concrete removal were requested and are attached.

Biofilter media is an important part of the odor control systems at Plant 2 and the Cowskin Creek Water Quality Reclamation Facility (CCWQRF). Wood chips are the media that provide a substrate for the growth of microbes responsible for consuming the odorous chemicals from the air collected throughout the plants. Plant 2 has been operating the biofilter for five years and has seen enough deterioration of the media to require them to be changed. The unit at CCWQRF has been in service three years and the media have deteriorated in a less uniform manner.

Analysis: The state is mandating the decommissioning of the drying beds at Plant 1. The need for the concrete removal is a new requirement and represents the largest expense. Biofilter maintenance at Plant 2 and CCWQRF is an important part of the odor control program at both facilities and both of the beds require replacement.

The CIP was originally set up for improvements of the Plant 2 treatment system. The Plant 2 project will be complete by the end of June with the completion of the computer upgrade project. Bids will be taken for the removal and disposal of the concrete from the beds, and Staff will complete the closure. Bids will also be taken for the media replacement.



Financial Considerations: CIP S-513, Sewage Treatment Plant 2 Improvements, will have remaining funds of \$1.7 million and be available for the mandated projects at Plant 1 and the CCWQRF. Total cost for the two projects will be \$275,000. The drying bed decommissioning at Plant I will cost \$50,000. Media replacement is expected to cost \$225,000 for the change out of the units at Plant 2 and CCWQRF.

Goal Impact: These items impact the infrastructure by providing reliable, sanitary, safe and compliant utilities.

Legal Considerations: The Law Department has approved the Resolution as to form.

Recommendations/Actions: It is recommended that the City Council: 1) approve the expenditures;  
2) adopt the Resolution; and 3) authorize the necessary signatures

Attachments: Resolution, Quotes for Concrete Removal.

NOTICE OF INTENTION TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER AND SEWER UTILITY OWNED AND OPERATED BY THE CITY OF WICHITA, KANSAS, AND TO ISSUE REVENUE BONDS, IN A TOTAL PRINCIPAL AMOUNT WHICH SHALL NOT EXCEED \$275,000, FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF.

TO: THE RESIDENTS OF THE CITY OF WICHITA, KANSAS

You and each of you are hereby notified that the Governing Body of the City of Wichita, Kansas, by Resolution No. 06-\_\_\_\_\_, duly adopted \_\_\_\_\_, 2006, has found and determined it to be necessary and declared its intention to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas Water & Sewer Utility which is owned and operated by the City, such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, Sewage Treatment Plant Improvements (S-513) (called the "Project"). The total costs of the Project are estimated to be two hundred seventy-five thousand dollars (\$275,000 million) in 2006. The making of the Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

You are hereby further notified that in order to provide financing for certain costs of the Project, the Governing Body has further found and determined it to be necessary and declared its intention to issue revenue bonds in a total principal amount which shall not exceed \$275,000, under the authority of K.S.A. 10-1201 et seq., as amended and supplemented. Such revenue bonds shall not be general obligation bonds of the City payable from taxation, but shall be payable only from the revenues derived from the operations of the Water and Sewer Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the City which will be available for that purpose.

This Notice of Intent shall be published one time in the official newspaper of the City; and if, within Fifteen (15) days from and after the publication date hereof, there shall be filed in the Office of the City Clerk a written protest against the Project and the issuance of the revenue bonds, which protest is signed by not less than Twenty Percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the revenue bonds shall be submitted to the electors of the City at a special election which shall be called for that purpose as provided by law. If no sufficient protest to the Project and the issuance of the revenue bonds is filed within said Fifteen (15) day period, then the Governing Body shall have the authority to authorize and proceed with the Project and the issuance of the revenue bonds.

BY ORDER of the Governing Body of the City of Wichita, Kansas, on \_\_\_\_\_, 2006.

/s/ CARLOS MAYANS, Mayor

ATTEST:

/s/ Karen Sublett, City Clerk

RESOLUTION NO. 06-

A RESOLUTION OF THE CITY OF WICHITA, KANSAS, DECLARING IT NECESSARY TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER AND SEWER UTILITY OWNED AND OPERATED BY THE CITY, AND TO ISSUE REVENUE BONDS IN A TOTAL PRINCIPAL AMOUNT WHICH SHALL NOT EXCEED \$275,000 EXCLUSIVE OF THE COST OF INTEREST ON BORROWED MONEY, FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF, AND PROVIDING FOR THE GIVING OF NOTICE OF SUCH INTENTION IN THE MANNER REQUIRED BY LAW.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the "City"), has heretofore by Ordinance No. 39-888, adopted May 26, 1987 and published in the official newspaper of the City on May 29, 1987, as required by law, authorized the combining of the City-owned and operated municipal water utility and municipal sewer utility thereby creating the "City of Wichita, Kansas Water and Sewer Utility" (herein sometimes referred to as the "Utility"); and

WHEREAS, the City is authorized under the Constitution and laws of the State of Kansas, including K.S.A. 10-1201 et seq., ( the "Act"), to issue revenue bonds to construct, reconstruct, alter, repair, improve, extend and enlarge the Utility;

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. It is hereby found and determined to be necessary and advisable to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility, such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, Sewage Treatment Plant Improvements (S-513) (the "Project"). The total costs of the Project are estimated to be two hundred seventy-five thousand dollars (\$275,000) in 2006 exclusive of the cost of interest on borrowed money. Available and unencumbered funds of the Utility will be used to pay a portion of the costs of the Project.

SECTION 2. It is hereby found and determined that the construction of the Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

SECTION 3. It is hereby found and determined to be necessary and advisable to issue revenue bonds of the City, in a total principal amount which shall not exceed be two hundred seventy-five thousand dollars (\$275,000) in 2006 exclusive of the cost of interest on borrowed money, under the authority of the Act, to pay certain costs of the Project, and the expenses of issuing such revenue bonds. Such revenue bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose.

SECTION 4. It is hereby found and determined to be necessary, before such revenue bonds can be issued, to publish one time in the City's official newspaper a Notice of the Governing Body's intention to initiate and complete the Project and to issue such revenue bonds, such Notice to be in the form which is attached hereto and made a part hereof by reference as though fully set forth herein. If, within Fifteen (15) days from and after the date of the publication of the Notice, there shall be filed in the Office of the City Clerk a written protest against the Project and the issuance of the revenue bonds, which protest is signed by not less than Twenty Percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the revenue bonds shall be submitted to the electors of the City at a special election which shall be called for that purpose as provided by law. If a sufficient protest to the Project and the issuance of the revenue bonds is not filed within said Fifteen (15) day period, then the Governing Body shall have the authority to authorize and proceed with the Project and the sale and issuance of the revenue bonds.

SECTION 5. This Resolution shall be in force and take effect from and after its adoption and approval.

ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas, not less than two-thirds of the members voting in favor thereof, on \_\_\_\_\_, 2006.

(Seal)

CARLOS MAYANS, Mayor

ATTEST:

KAREN SUBLETT, City Clerk

APPROVED AS TO FORM:

GARY E. REBENSTORF, Director of Law

## **Agenda Item No. 26.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0591

TO: Mayor and City Council

SUBJECT: Resolution Considering the Establishment of a Redevelopment District  
(Tax Increment Financing)(District II)

INITIATED BY: City Manager's Office

AGENDA: New Business

Recommendation: Adopt the resolution setting a public hearing for consideration of the establishment of a redevelopment district.

Background: A local real estate development company, Loveland Properties L.L.C., has requested assistance from the City of Wichita in the redevelopment of property located near Douglas and Hillside, through the use of tax increment financing. Procedures for the use of tax increment financing require the establishment of a redevelopment district following a public hearing on the matter. At this time, the City is being asked to adopt a resolution setting the public hearing for July 11, 2006.

Analysis: The area proposed for redevelopment is shown on Exhibit 'A' to the attached resolution. The area is bounded on the south by Douglas Avenue, on the west by Hillside Avenue, on the north by First Street and includes property parcels adjacent to the east of Rutan Avenue. This is an area that qualifies as a "conservation area" under the state TIF statutes. This area was the site of the original Wichita Clinic Building, which has recently been demolished. In 1988, the building was purchased by the State of Kansas and served as the regional office of the Kansas Department of Social and Rehabilitative Services (SRS). In 1995, the building and adjacent parking lots were purchased by the City of Wichita and Sedgwick County as part of the project to consolidate state agencies into the former Dillards Building in downtown Wichita. It was sold to Rusty Eck and has remained vacant since 1995.

Loveland Properties proposes to purchase the former Clinic/SRS site and other property within the proposed redevelopment district and construct a mixed-use commercial development. The general plan for redevelopment calls for construction of a high-rise apartment/condo building with an attached parking structure, brownstone-type town homes and retail space. Tax increment financing would be used to pay for eligible redevelopment costs, which include (without limitation) land acquisition, demolition, site preparation, utilities, landscaping, paving, and public infrastructure.

Tax increment financing allows the increased tax revenue that results from the redevelopment of property to be reinvested in the redevelopment project. Once a TIF district is established and a redevelopment project plan is adopted by City Council, the increment of increased tax revenue is set aside by the County Treasurer, to be used by the City to repay bonds issued to finance certain improvements that are specified in the redevelopment project plan. After the bonds are retired, the property tax increment is distributed to the City, County and School District.

The first step in establishing the tax increment district is the adoption of a resolution which states that the City Council is considering the establishment of the TIF district and sets the date for a public hearing on the matter. The earliest date a public hearing could be held for this project is July 11, 2006. After closing the public hearing, the City Council may adopt an ordinance establishing the redevelopment district. The final step in the approval process involves the adoption of a detailed project plan and approval of a development agreement.

The initiating resolution directs the City Clerk to publish the resolution in the City's official newspaper and to mail copies, by certified mail, to the owners and occupants of all property located within the district and to the Board of County Commissioners and Board of Education. The resolution also includes a map of the proposed district and a proposed district plan identifying potential redevelopment project areas and a general description of buildings and facilities to be constructed or improved.

Tax increment financing falls under the City's Economic Development Incentive Policy, and as such this project will be subject to the provisions of said Policy, unless specifically waived or adjusted by the City Council. For example, it may be necessary to waive or adjust the requirement that projects must show a cost-benefit ratio of at least 1.3 to one in order to receive incentives. As a commercial redevelopment project consisting of housing and retail businesses, it is unlikely the project will qualify under that requirement.

**Financial Considerations:** The cost of mailing the Resolution to all owners and occupants of property located within the proposed district will be charged to Economic Development Fund and will be ultimately financed with TIF revenues.

The developer will be required in the development agreement to provide satisfactory guarantees for the payment of any shortfall in TIF revenues available for debt service on any "full faith and credit" TIF bonds issued by the City.

Goal Impact: Economic Vitality and Affordable Living and Quality of Life. Redevelopment of blighted areas, and declining areas, are needed to avoid economic stagnation. Business prospects and workers seeking to relocate are attracted to a new city that takes care of its older sections.

Legal Considerations: State law allows cities to establish redevelopment districts in areas that are considered conservation areas based on findings that a majority of the structures in the area are at least 35 years old and the area is not yet blighted but may become blighted due to dilapidation, excessive vacancies or building abandonment. Such findings shall be set forth in the ordinance presented to the City Council for adoption following the public hearing on July 11, 2006. During a 30-day period following the public hearing, the Sedgwick County Board of County Commissioners and the USD 259 Board of Education will have the right to veto the establishment of the redevelopment district.

Recommendations/Actions: It is recommended that the City Council adopt the resolution providing notice of consideration for the establishment of the proposed redevelopment district and setting a public hearing for July 11, 2006.

Attachments: Resolution and Exhibits

A RESOLUTION STATING THE CITY OF WICHITA IS CONSIDERING THE ESTABLISHMENT OF A REDEVELOPMENT DISTRICT FOR THE DOUGLAS AND HILLSIDE REDEVELOPMENT DISTRICT UNDER AUTHORITY OF K.S.A. 12-1770 ET SEQ.

WHEREAS, the provisions of K.S.A. 12-1770, et seq., as amended, set forth the procedure for the establishment of a redevelopment district for certain purposes in eligible areas; and

WHEREAS, the City of Wichita (the “City”) is considering the establishment of a redevelopment district in a conservation area to be known as the “Douglas and Hillside Redevelopment District” to promote the general and economic welfare of the City and the former enterprise zone area;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS;

Section 1. That the City is considering the establishment of a redevelopment district to be known as the Douglas and Hillside Redevelopment District.

Section 2. That the City will hold a public hearing to consider the establishment of such redevelopment district on July 11, 2006, at 9:30 a.m., or as soon thereafter as possible, in the City Council Chambers, City Hall, 455 North Main Street, Wichita, Kansas.

Section 3. That the boundaries of the proposed redevelopment district are set forth in Exhibit “A” attached hereto.

Section 4. That the redevelopment district plan identifying proposed redevelopment project areas along with a general description of the buildings, facilities, and improvements that are proposed to be constructed or improved in the redevelopment district is attached hereto as Exhibit “B”.

Section 5. That a description and map of the proposed redevelopment district shall be available for inspection by the public in the City Clerk’s Office, City Hall, 13th Floor, 455 North Main Street, Wichita, Kansas, from 8:00 a.m. until 5:00 p.m., Monday through Friday, from the 7th of June, 2006, until July 10, 2006.

Section 6. That the Governing Body will consider making findings necessary for the establishment of a redevelopment district at the public hearing set to be heard herein.



Section 7. That a copy of this resolution shall be delivered to the Sedgwick County Board of County Commissioners, and to the Board of Education of Unified School District No. 259. Copies of this resolution shall also be mailed by certified mail, return receipt requested, to each owner and occupant of land within the proposed redevelopment district not more than ten (10) days following the date of the adoption of this resolution.

Section 8. That this resolution shall be published once in the official City newspaper not less than one week or more than two weeks preceding the date fixed for the public hearing. A sketch clearly delineating the proposed redevelopment district in sufficient detail to advise the reader of the particular land proposed to be included within the redevelopment district shall be published with the resolution.

PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, City Attorney

REDEVELOPMENT DISTRICT PLAN FOR THE REDEVELOPMENT OF THE  
DOUGLAS & HILLSIDE REDEVELOPMENT DISTRICT THROUGH TAX  
INCREMENT FINANCING

JUNE 6, 2006

SECTION 1: PURPOSE

A district plan is required for inclusion in the establishment of a redevelopment district under K.S.A. 12-1771. The district plan is a preliminary plan that identifies proposed redevelopment project areas within the district, and describes in a general manner the buildings, facilities and improvements to be constructed or improved.

## SECTION 2: DESCRIPTION OF TAX INCREMENT INCOME

Projects financed through tax increment financing typically involve the creation of an “increment” in real estate property tax income. The increment is generated by segregating the assessed values of real property located within a defined geographic area such that a portion of the resulting property taxes flow to the City to fund projects in the redevelopment district, and the remaining portion flows to all remaining taxing jurisdictions. The portion of property taxes flowing to the City is determined by the increase in the assessed value of the properties within the redevelopment district as a result of the new development occurring within the same area. When the current aggregate property tax rates of all taxing jurisdictions are applied to this increase in assessed property value from new development, increment income is generated. Public improvements within the district and other qualified expenditures are funded by the City and repaid over a specified period of time with this increment income. The property taxes attributable to the assessed value existing prior to redevelopment, the “original valuation,” continue to flow to all taxing jurisdictions just as they did prior to redevelopment. This condition continues for the duration of the established district, as defined by statute, or until all eligible project costs are funded, whichever is of shorter duration.

## SECTION 3: BUILDINGS AND FACILITIES

The proposed redevelopment district is located within the city limits of Wichita, Kansas. The district is bounded on the south by Douglas Avenue, on the west by Hillside Avenue, on the north by 1st Street North and includes property adjacent to Rutan Avenue on the east (see Exhibit “A” attached hereto). The district includes several smaller commercial retail stores, medical office buildings and a drive-in restaurant, located mainly along Douglas and Hillside Avenues, and some older single-family residential homes located mainly on Victor and First Street. Until it was recently demolished, it also included a high-rise office building at Douglas and Rutan that served as the original location of the Wichita Clinic and later as the regional offices of the Kansas Department of Social and Rehabilitative Services.

The proposed redevelopment district is an area that meets the criteria for designation as a “conservation area” as defined by state law governing the establishment and financing of redevelopment districts. Property located within conservation areas are legally eligible for establishment of a redevelopment district.

## SECTION 4: REDEVELOPMENT AND PROJECT AREAS

It is anticipated that the portion of the redevelopment district that was once occupied by the Wichita Clinic/SRS building and parking lots, and certain other adjacent property, will be designated as the “project area” under the redevelopment project plan, which must be adopted by the City Council by a 2/3 majority vote before the expenditure of any tax increment financing funds. The plans for redevelopment of the project area generally calls for construction of a high-rise apartment/condo building with an attached parking structure, brownstone-type town homes and retail space.

Tax increment financing may be used to pay for the purchase of real estate and site preparation including the demolition of structures and utility relocations, as well as on public infrastructure improvements, such as streetscape, public parking, utility extensions, landscaping and public plazas. Tax increment financing may not be used for construction of any buildings owned by or leased to a private, nongovernmental entity.

## SECTION 5: CONCLUSION

After the establishment of the redevelopment district, any redevelopment projects to be funded with tax increment financing will be presented to the Governing Body for approval through the adoption of a Redevelopment Project Plan. The Project Plan will identify the specific project area located within the established tax increment financing district and will include detailed descriptions of the projects as well as a financial feasibility study showing that the economic benefits out-weight the costs. The Project Plan must be reviewed by the Metropolitan Planning Commission and submitted to a public hearing following further notification of property owners and occupants, before it can be adopted by a two-thirds majority vote of the Governing Body. Only then can tax increment income be spent on the redevelopment projects.

Tax increment financing does not impose any additional taxes on property located within the redevelopment district. All property within the district is appraised and taxed the same as any other property. However, if property within the district increases in value as a result of redevelopment, the resulting increment of additional tax revenue is diverted to pay for a portion of the redevelopment costs.

## **Agenda Item 27.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report 06-0592

TO: Mayor and City Council

SUBJECT: Public Hearing and Tax Exemption Request  
(Weaver Manufacturing, Inc.)(District I)

INITIATED BY: City Manager's Office

AGENDA: New Business

Recommendation: Close the public hearing; approve first reading of the Ordinance, and the tax exemption request.

Background: On December 19, 2000, City Council approved a five-plus-five year 100% ad valorem tax exemption for Weaver Manufacturing, Inc. (Weaver Manufacturing) on an expansion project that resulted in constructing additional manufacturing space and purchasing new equipment. On December 18, 2001, City Council also approved a 94.75% five-year tax exemption on manufacturing equipment, and March 4, 2003, Council approved a 100% five-year tax exemption on manufacturing equipment.

Weaver Manufacturing, Inc., located at 1005 E 17th in northeast Wichita, was locally formed in 1942. Weaver is a machine shop supporting Wichita's aircraft industry and over the years has experienced growth in sales and production. In response to an increase in production, Weaver expanded its existing facility to include acquisition of new manufacturing equipment in the amount of \$316,890. The company is now requesting approval of an Economic Development Tax Exemption on additional new equipment in conjunction with the expansion project.

Analysis: Weaver Manufacturing, Inc. manufactures precision component aircraft parts in support of Wichita's major aircraft manufacturers. Weaver specializes in engine attachment rings for aircraft, which are the rings that hold the jet engines onto a plane's wing. Weaver also manufactures structural component parts such as floor beams and seat tracks. Weaver utilizes precise equipment to machine component parts up to 80" to 125" in length. By using the latest in computer technology, the company has built a reputation for producing high quality, close tolerance machined parts as well as tooling and prototype work.

Weaver's expansion project will result in the purchase of new manufacturing equipment. The new equipment will be purchased by a 60%-owned affiliate, TDR, Ltd, and leased to Weaver Manufacturing, Inc. by such affiliate.

Staff conducted a site-monitoring visit on June 5, 2004, and as a result of the 2003 expansion, Weaver is on target with its job commitment and is in compliance with all the terms and conditions under which the City granted the exemption. Weaver currently employs 56 employees and projects to add an additional 4 new jobs over the next five years by expanding operations through acquisition of new manufacturing equipment.

Weaver exports 100% of all production out of Kansas via Spirit Aero systems, Boeing, B.F. Goodrich and Nordam, Cessna and Vought Aircraft.

Weaver Manufacturing Inc./TDR, Ltd's, expansion project is itemized in Exhibit I attached hereto. Under the Economic Development Incentive Policy, Weaver Manufacturing is eligible for the following property tax abatement:

#### TAX EXEMPTION ELIGIBILITY

ELIGIBLE %	INCENTIVE	EXPLANATION
19.00%	New Job Creation:	Weaver Manufacturing will create at least four (4) new jobs.
6.00%	Capital Improvements:	Weaver Manufacturing will invest at least \$316,890.
25.00%	Sub Total Business -	Incentive Eligibility (Maximum allowed is 100%)
20.00%	Location Premium:	Weaver Manufacturing is located in the central redevelopment area.
45.00%	TOTAL EXEMPTION ALLOWED UNDER ECONOMIC DEVELOPMENT INCENTIVE POLICY	

Under the City's Economic Development Incentive Policy, Weaver and TDR, Ltd are eligible for 45% tax exemption for a five-year term on the identified personal property. A notice of public hearing has been published. Weaver Manufacturing has agreed to comply with the conditions set forth in the Economic Development Incentive Policy.

Financial Considerations: The estimated first year taxes on the proposed \$316,890 expansion would be \$7,702 on personal property, based on the 2005 mill levy. Using the allowable tax exemption of 45 percent, the City would be exempting (for the first year) \$3,466 of new taxes from the personal property tax rolls. The tax exemption would be shared among the taxing entities as follows: City – \$975; County/State - \$924; and USD 259 - \$1567.

Wichita State University Center for Economic Development and Business Research calculated a cost-benefit analysis indicating benefit-to-cost ratios, which are as follow:

City of Wichita	3.94 to one
Sedgwick County	4.20 to one
USD 259	1.31 to one
State of Kansas	5.86 to one

Goal Impact: Economic Vitality and Affordable Living. Granting an ad valorem property tax exemption will encourage the business to create new job opportunities and stimulate economic growth for the City of Wichita and Sedgwick County.

Legal Considerations: The City Attorney's Office has approved the Ordinance as to form.

Recommendations/Actions: It is recommended that City Council close the public hearing, and approve first reading of the Ordinance granting Weaver Manufacturing, Inc. and TDR, Ltd. a 45% tax exemption on the identified personal property for a five-year term.

Attachments: Ordinance.  
Exhibit I

ORDINANCE NO.

AN ORDINANCE EXEMPTING PROPERTY FROM AD VALOREM TAXATION FOR ECONOMIC DEVELOPMENT PURPOSES PURSUANT TO ARTICLE 11, SECTION 13, OF THE KANSAS CONSTITUTION; PROVIDING THE TERMS AND CONDITIONS FOR AD VALOREM TAX EXEMPTION; AND DESCRIBING THE PROPERTY OF WEAVER MANUFACTURING, INC., SO EXEMPTED.

WHEREAS, Article 11, Section 13, of the Kansas Constitution provides that the governing body of the City may, by Ordinance, exempt from all ad valorem taxation all or any portion of the appraised value of certain property meeting the requirements of the constitutional provision; and

WHEREAS, the City of Wichita has adopted an Economic Development Incentive Policy by which the City will consider granting tax exemptions upon a clear and factual showing of direct economic benefit including the creation of additional jobs or the upgrading of existing jobs and the stimulation of additional private investment; and

WHEREAS, Weaver Manufacturing, Inc. and TDR, Ltd. (its 60%-owned affiliate) request an ad valorem tax exemption on a proposed expansion project of 45% for a five-year term on the purchase of certain new manufacturing equipment; and

WHEREAS, Weaver Manufacturing, Inc. has operated within the City for more than fifty years as a machine shop supporting the aircraft industry; and

WHEREAS, Weaver Manufacturing, Inc. proposes a \$316,890 expansion and lease from TDR, Ltd. of new equipment purchased by TDR, Ltd., all to be located at 1005 E. 17th in northeast Wichita; and

WHEREAS, the City Council of the City of Wichita has reviewed the application and supporting documentation supplied by Weaver Manufacturing, Inc., has reviewed the impact statements provided by Staff, and the Cost-Benefit Analysis by the Wichita State University and has conducted a public hearing on such application on June 6, 2006; and

WHEREAS, the City Council of the City of Wichita has found and determined:

1. Weaver Manufacturing, Inc. is an existing business located in Wichita, Kansas and intends to expand its business by the purchase of certain personal property through its 60%-owned affiliate, TDR, Ltd.
2. The purchase of personal property for which exemption is given occurred after June 13, 2005. No exemption will be given for construction or purchases, which occurred before that date.

3. Such property purchases are to be used exclusively for manufacturing articles of commerce.

4. By such purchases, Weaver Manufacturing, Inc. will create new employment for 4 employees within three years after the start of the project.

5. Tax exemption will be given only for the purchase of certain personal property as reflected in Exhibit I attached hereto.

6. The property on which exemption is given will meet the requirements of the Kansas Constitution and the City of Wichita's Economic Development Incentive Policy.

7. Such ad valorem tax exemption is in the public interest providing for economic growth and benefit including the creation of jobs and stimulating additional private investment.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS,

1. The City Council for the City of Wichita, Kansas hereby makes a factual determination that an ad valorem tax exemption of the type requested by Weaver Manufacturing, Inc. is required to retain jobs in the State of Kansas, and that the property to be exempted is to be used exclusively for manufacturing articles of commerce.

2. Weaver Manufacturing, Inc. and TDR, Ltd. are hereby granted an ad valorem tax exemption of 45% for a five-year term on the purchase of personal property started after June 13, 2005, and located within the Wichita City limits at 1005 E. 17th in northeast Wichita at an estimated cost of \$316,890, as further defined in Exhibit I attached hereto. Such exemption is to begin in the calendar year after the calendar year in which the expansion is completed, and may be terminated early (and Weaver Manufacturing, Inc. and TDR, Ltd. may be required to repay amounts previously abated), in the event of any failure by Weaver Manufacturing, Inc. or TDR, Ltd. to perform obligations under the Economic Development Incentive Agreement executed with the City.

3. The Economic Development Incentive Agreement by and among the City of Wichita, Weaver Manufacturing, Inc. and TDR, Ltd. is hereby approved.

4. The City Manager's Office shall be responsible for monitoring the performance of Weaver Manufacturing, Inc. and shall provide annual reports on such performance.

5. Such exemption is subject to verification that the level of employment at the time of the completion of the project is at least equal to the level of employment as stated in Weaver Manufacturing, Inc.'s written request for ad valorem tax exemptions as presented to the City Council and to administrative staff and dated March 28, 2006, and as stated in Weaver Manufacturing, Inc.'s annually approved EEO/AA Plan.



6. Such exemption may hereafter be withdrawn by the City Council upon a finding that Weaver Manufacturing, Inc. no longer is entitled to such exemption in accordance with the Economic Development Incentive Agreement, which Weaver Manufacturing, Inc. has executed with the City.

7. The City Council may, at its discretion, require Weaver Manufacturing, Inc. to return all funds exempted if there is a failure to meet the terms and conditions of the Economic Development Incentive Agreement, which Weaver Manufacturing, Inc. has executed with the City.

8. Upon finding that Weaver Manufacturing, Inc. has failed to meet its obligations under the Economic Development Incentive Agreement, the City Council shall require the repayment of all prior amounts of taxes that have been exempted and shall withhold any future exemption of taxes on Weaver Manufacturing, Inc.'s expansion project. All repayments shall be redistributed to the local taxing authorities at the proper taxing rates.

8. This Ordinance shall be in full force and effect from and after its passage and publication in the official City paper.

Passed by the governing body of the City of Wichita, Kansas this 13th day of June, 2006.

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, City Attorney

**Weaver Manufacturing, Inc.**

### **Exhibit I**

Equipment Purchases:

Makino S-33, SN-7400	\$148,680
Makino S-33, SN-7459	148,680
25.00 Infrared Probe	<u>19,530</u>
<b>Total Equipment</b>	<b>\$316,890</b>
<b>Total Expansion Project</b>	<b>\$316,890</b>

## **Agenda Item No. 28.**

CITY OF WICHITA  
City Council Meeting

June 6, 2006

Agenda Report No. 06-0593

TO: Mayor and City Council Members

SUBJECT: Child Passenger Safety Act amendment, Section 11.38.370

INITIATED BY: Department of Law, Police Department

AGENDA: New Business

Recommendation: Place the ordinance on first reading.

Background: City of Wichita Ordinance 11.38.370 is known as the Child Passenger Safety Act.

Currently, the ordinance requires children under the age of four years to be placed in a proper child safety restraining system, that meets or exceeds the standards and specifications contained in the federal motor vehicle safety standard no. 213. Children four years of age, but under the age of fourteen, must be restrained in a safety belt manufactured in compliance with federal motor vehicle safety standard no. 208. During the 2006 state legislative session, House Bill No. 2611 was passed, which places more stringent requirements for safety restraints of children in motor vehicles. Effective July 1, 2006, this bill continues to require children under the age of four years to be in an appropriate child safety restraining system. However, the bill will require that children four years of age, but under eight years of age, and who weighs less than 80 pounds, or is less than 4 feet 9 inches in height, must be in an appropriate child passenger restraining system that meets or exceeds the standards and specifications in federal motor vehicle safety standard no. 213.

For children eight years of age but under fourteen years of age, or who weighs more than 80 pounds or is more than 4 feet 9 inches in height, must be in a safety belt manufactured in compliance with federal motor vehicle safety standard no. 208. Under the current version of the law, \$10 of the fine and court costs shall be waived if the driver convicted of violating the child safety seat provisions provides proof to the court that they have procured or purchased a proper child safety seat. Under the law effective July 1, 2006, \$60 of the fine is waived upon proof of purchase or procurement of a proper child safety seat, and such proof is provided to the Court.

For those violating the provisions mandating child safety seats for those from four years of age to eight years of age, and who weighs less than 80 pounds or is less than 4 feet 9 inches in height, then a warning citation shall be issued for this violation until June 30, 2007. Currently, the Wichita Police Department does not issue warning citations, or have a warning citation form. When officers issue warning citations in this instance, they will utilize the current citation, and indicate at the top, that it is a warning. Copies of the citations will be forwarded to Municipal Court for tracking and statistical purposes.

Analysis: Amendment to City of Wichita Ordinance 11.38.370 must be adopted, as city ordinance cannot be less restrictive than state statute.

Financial Considerations: None.

Goal Impact: Provide a safe and secure community.

Legal Considerations: The ordinance amendment has been prepared and approved as to form by the Law Department.

Recommendations/Actions: Place the ordinance on first reading.

## ORDINANCE

### AN ORDINANCE AMENDING SECTION 11.38.370 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE CHILD PASSENGER SAFETY ACT

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1: 11.38.370 of the Code of the City of Wichita, Kansas, shall read as follows

(a) Every driver as defined in K.S.A. 8-1416, and amendments thereto, who transports a child under the age of fourteen years in a passenger car as defined in subsection (e) of this section, within the city limits shall provide for the protection of such child by properly using:

(1) For a child under the age of four years an appropriate child passenger safety restraining system that meets or exceeds the standards and specifications contained in federal motor vehicle safety standard No. 213; or

(2) For a child four years of age, but under the age of eight years and who weighs less than 80 pounds or is less than 4 feet 9 inches in height, an appropriate child passenger safety restraining system that meets or exceeds the standards and specifications contained in federal motor vehicle safety standard no. 213; or

(3) For a child eight years of age but under the age of fourteen years or who weighs more than 80 pounds or is more than 4 feet 9 inches in height, a safety belt manufactured in compliance with federal motor vehicle safety standard No. 208.

(b) If the number of children subject to the requirements of subsection (a) exceeds the number of passenger securing locations available for use by children affected by such requirements, and all of these securing locations are in use by children, then there is not a violation of this section.

(c) If a securing location only has a lap safety belt available, the provisions of subsection (a)(2) shall not apply and the child shall be secured in accordance with the provisions of subsection (a)(3).

(d) It is unlawful for any driver of a passenger car to violate the provisions of this section and upon conviction such driver shall be punished by a fine of sixty dollars. The failure to provide a child safety restraining system or safety belt for more than one child in the same passenger car at the same time shall be treated as a single violation.

(e) The \$60 fine provided for in subsection (d) shall be waived if the driver convicted of violating subsection (a)(1) or (a)(2) of this section provides proof to the court that such driver has purchased or acquired the appropriate and approved child passenger safety restraining system. At the time of issuing the citation for a violation of subsection (a)(1) or (a)(2) of this section, the law enforcement officer shall notify the driver of the waiver provisions of this subsection.

(f) No driver charged with violating the provisions of this section shall be convicted if such driver produces proof in the municipal court that the child was fourteen years of age or older at the time the violation was alleged to have occurred.

(g) As used in this section “passenger car” means a motor vehicle, manufactured or assembled after January 1, 1968, or a motor vehicle manufactured or assembled prior to 1968 which was manufactured or assembled with safety belts, with motive power designed for carrying 10 passengers or fewer, including vans, but does not include a motorcycle, a trailer or a vehicle constructed either on a truck chassis registered for a gross weight or more than 12,000 pounds or a farm truck registered for a gross weight of more than 16,000 pounds.

(h) From and after the effective date of this section, and prior to July 1, 2007, a law enforcement officer shall issue a warning citation to anyone violating subsection (a)(2).

Section 2. The original of Section 11.38.370 of the Code of the City of Wichita, Kansas, is hereby repealed.

Section 3. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf

Director of Law

## **Agenda Item No. 29.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0594

TO: Mayor and City Council Members

SUBJECT: Maize and Westport Intersection Improvement (District V)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Approve the revised project budget.

Background: On July 12, 2005, the City Council approved a project to improve the intersection of Maize and Westport. An attempt to award a construction contract within the project budget was not successful. An amending Ordinance has been prepared to increase the project budget.

Analysis: The project will construct left turn lanes on Maize for north and south bound traffic at Westport. Landscaped medians will be installed on Maize.

Financial Considerations: The current budget is \$300,000 with \$30,000 paid by the City and \$270,000 by Federal Grants administered by the Kansas Department of Transportation. The funding source for the City share is General Obligation Bonds. The proposed increased budget is \$460,000 with \$60,000 paid by the City and \$400,000 paid by Federal Grants. Funding for the increased City cost is available from projected under expenditures in the 29th Street North improvement, between Maize and Tyler.

Goal Impact: This project addresses the Ensure Efficient Infrastructure goal by improving traffic flow through a busy intersection in west Wichita.

Legal Considerations: The Law Department has approved the amending Ordinance as to legal form.

Recommendations/Actions: It is recommended that the City Council approve the revised budget, place the amending Ordinance on First Reading and authorize the signing of State/Federal agreements as required.

Attachment: Ordinance.

ORDINANCE

AN ORDINANCE AMENDING ORDINANCE NO. 46-626 OF THE CITY OF WICHITA, KANSAS DECLARING THE INTERSECTION OF MAIZE ROAD AT WESTPORT (472-84244) TO BE A MAIN TRAFFICWAY WITHIN THE CITY OF WICHITA KANSAS; DECLARING THE NECESSITY OF AND AUTHORIZING CERTAIN IMPROVEMENTS TO SAID MAIN TRAFFICWAY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS, THE ESTIMATED COSTS THEREOF, AND THE MANNER OF PAYMENT OF THE SAME.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. SECTION 3 of Ordinance 46-626 is hereby amended to read as follows:

“SECTION 3. The costs of the construction of the above described improvements is estimated to be Four Hundred Sixty Thousand Dollars (\$460,000) exclusive of the cost of interest on borrowed money, with \$60,000 paid by the City of Wichita and \$400,000 paid by Federal Transportation Grants. Said City share, when ascertained, shall be borne by the City of Wichita at large by the issuance of General Obligation Bonds under the authority of K.S.A. 12-689.”

SECTION 2. The original of SECTION 3 of Ordinance No. 46-626 is hereby repealed.

SECTION 3. That the City Clerk shall make proper publication of this ordinance, which shall be published once in the official City paper and which shall be effective from and after said publication.

ADOPTED at Wichita, Kansas, \_\_\_\_\_, 2006.

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

APPROVED AS TO FORM:

Gary E. Rebenstorf  
Director of Law

## **Agenda Item No. 30.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0595

TO: Mayor and City Council Members

SUBJECT: Greenwich Road Improvement, between 26th and 29th St.  
North (District II)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendations: Approve the project.

Background: The 2005-2014 Capital Improvement Program adopted by the City Council includes a project to improve Greenwich, between 26th and 29th St. North. District II Advisory Board sponsored a May 1, 2006, neighborhood hearing on the project. The Board voted 11-0 to recommend approval of the project.

Analysis: The project will provide four through lanes on Greenwich and a continuous center two-way left turn lane. The intersection of Greenwich at 29th will be paved with left turn lanes at all four approaches. A storm water sewer will be constructed to improve drainage. Construction is planned to begin later this year.

Financial Considerations: The estimated project cost is \$1,700,000 with \$500,000 paid by the City and \$1,200,000 by Federal Grants administered by the Kansas Department of Transportation. The funding source for the City share is General Obligation Bonds.

Goal Impact: This project addresses the Ensure Efficient Infrastructure goal by improving a vital arterial street. It also addresses the Economic Vitality and Affordable Living goal by providing a public improvement necessary for the private sector's development of the surrounding area.

Legal Considerations: The Law Department has approved the authorizing Ordinance as to legal form.

Recommendation/Actions: It is recommended that the City Council approve the project, place the Ordinance on First Reading, and authorize the signing of State/Federal agreements as required.

Attachment: Ordinance.



ORDINANCE

AN ORDINANCE DECLARING GREENWICH, BETWEEN 26TH ST. NORTH AND 29TH ST. NORTH (472-84415) TO BE A MAIN TRAFFICWAY WITHIN THE CITY OF WICHITA, KANSAS; DECLARING THE NECESSITY OF AND AUTHORIZING CERTAIN IMPROVEMENTS TO SAID MAIN TRAFFICWAY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS, THE ESTIMATED COSTS THEREOF, AND THE MANNER OF PAYMENT OF SAME.

WHEREAS, K.S.A. 12-685 provides that the governing body of any city shall have the power to designate and establish by ordinance any existing or proposed street, boulevard, avenue, or part thereof to be a main trafficway, the main function of which is the movement of through traffic between areas of concentrated activity within the city, and

WHEREAS, K.S.A. 12-687 provides that the governing body of any city shall have the power to improve or reimprove or cause to be improved or reimproved, any main trafficway or trafficway connection designated and established under the provisions of K.S.A. 12-685 et seq., and

WHEREAS, K.S.A. 12-689 provides that all costs of improvements or reimprovements authorized under the provisions of K.S.A. 12-687, including acquisition of right-of-way, engineering costs, and all other costs properly attributable to such projects, shall be paid by the city at large from the general improvement fund, general revenue fund, internal improvement fund, or any other fund or funds available for such purpose or by the issuance of general improvement bonds.

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Greenwich, between 26th St. North and 29th St. North (472-84415) in the City of Wichita, Kansas is hereby designated and established as a main trafficway, the primary function of which is the movement of through traffic between areas of concentrated activity within the City, said designation made under the authority of K.S.A. 12-685.

SECTION 2. It is hereby deemed and declared to be necessary by the governing body of the City of Wichita, Kansas, to make improvements to Greenwich, between 26th St. North and 29th St. North (472-84415) in the following particulars:

The design, construction of a roadway, acquisition of right-of-way, relocation of utilities, installation of traffic signals, drainage improvements and landscaping, as necessary for a major traffic facility.

SECTION 3. The costs of the construction of the above described improvements is estimated to be One Million Seven Hundred Thousand Dollars (\$1,700,000) exclusive of the cost of interest on borrowed money, with \$500,000 paid by the City of Wichita and \$1,200,000 paid by Federal Transportation Grants. Said City share, when ascertained, shall be borne by the City of Wichita at large by the issuance of General Obligation Bonds under the authority of K.S.A. 12-689.

SECTION 5. The above described main trafficway improvements shall be made in accordance with the Plans and Specifications prepared under the direction of the City Engineer of the City of Wichita and approved by the governing body of the City of Wichita, Kansas. Said plans and specifications are to be placed on file in the office of the City Engineer.

SECTION 6. Be it further ordained that the improvements described herein are hereby authorized under the provisions of K.S.A. 12-685 et seq.

SECTION 7. That the City Clerk shall make proper publication of this ordinance, which shall be published once in the official City paper and which shall be effective from and after said publication.

ADOPTED at Wichita, Kansas, June \_\_\_\_\_ 2006.

CARLOS MAYANS, MAYOR

ATTEST:  
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:  
GARY REBENSTORF, DIRECTOR OF LAW

## **Agenda Item No. 31.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0607

TO: Mayor and City Council Members

SUBJECT: AMENDMENTS TO SECTION 5.66.010 OF THE CODE OF  
THE CITY OF WICHITA, KANSAS, PERTAINING TO  
CRIMINAL DAMAGE TO PROPERTY

INITIATED BY: Law Department

AGENDA: New Business

Recommendation: Approve the Mayor's Request for Declaration of Emergency and pass the ordinance amending Section 5.66.010 of the Code of the City of Wichita, on a single reading.

Background: The Kansas Legislature increased the jurisdictional amount for the misdemeanor crime of criminal damage to property. Under the existing state statute, K.S.A. 21-3720, criminal damage to property was a misdemeanor offense if the property was damaged in an amount less than \$500, or if the damaged property had a value under \$500. The amendments to K.S.A. 21-3720, found in Senate Bill 366, raise the amount of damage to under \$1,000, or the value of property damaged is under \$1,000.

Analysis: The amendments to 5.66.010 must be passed, in order to comply with the mandates of state statute, K.S.A. 21-3720, regarding jurisdictional limits for the crime of misdemeanor criminal damage to property. Municipal criminal ordinances cannot be less restrictive than state criminal ordinances.

Financial Considerations: None.

Goal Impact: Provide a Safe and Secure Community. This amendment will allow the Police Department and Law Department to continue to charge and prosecute criminal damage to property violations.

Legal Considerations: The City of Wichita Law Department drafted the amended ordinance and approved it as to form.

Recommendations/Actions: Declare a public emergency and adopt the ordinance making the recommended amendments to City Code section 5.66.010.

ORDINANCE

AN ORDINANCE AMENDING SECTION 5.66.010 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO CRIMINAL DAMAGE TO PROPERTY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. 5.66.010 of the Code of the City of Wichita, Kansas, shall read as follows:

- (1) Criminal damage to property is by means other than by fire or explosive:
  - (a) Intentionally injuring, damaging, mutilating, defacing destroying, or substantially impairing the use of any property, in which another has an interest without the consent of such other person; or
  - (b) Injuring, damaging, mutilating, defacing, destroying or substantially impairing the use of any property, with intent to injure or defraud an insurer or lienholder.
- (2) Criminal damage to property is a misdemeanor if the property damaged is of a value of less than one thousand dollars, or is of the value of one thousand dollars or more and is damaged to the extent of less than one thousand dollars.
- (3) Penalty. Any person who is convicted of criminal damage to property shall be deemed guilty of a misdemeanor and shall be punished by a fine not to exceed two thousand five hundred dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Section 2. The original of Section 5.66.010 of the Code of the City of Wichita, Kansas, is hereby repealed.

Section 3. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper. PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf  
Director of Law

## **Agenda Item 32.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 0608

TO: Mayor and City Council Members

SUBJECT: AMENDMENTS TO SECTION 5.42.035 OF THE CODE OF  
THE CITY OF WICHITA, KANSAS, PERTAINING TO  
UNLAWFUL USE OF A FINANCIAL CARD

INITIATED BY: Law Department

AGENDA: New Business

Recommendation: Approve the Mayor's Request for Declaration of Emergency and pass the ordinance amending Section 5.42.035 of the Code of the City of Wichita, on a single reading.

Background: The Kansas Legislature increased the jurisdictional amount for the misdemeanor crime of criminal use of a financial card. Under the existing state statute, K.S.A. 21-3729, violation of criminal use of a financial card was a misdemeanor offense if the money, goods, property, services or communication services obtained within a seven-day period are of the value of less than \$500. The amendments to K.S.A. 21-3729, found in Senate Bill 366, raise the jurisdictional amount of goods or services obtained during a seven-day time period to less than \$1,000.

Analysis: The amendments to 5.42.035 must be passed, in order to comply with the mandates of state statute, K.S.A. 21-3729, regarding jurisdictional limits for criminal use of a financial card. Municipal criminal ordinances cannot be less restrictive than state criminal ordinances.

Financial Considerations: None.

Goal Impact: Provide a Safe and Secure Community. This amendment will allow the Police Department and Law Department to continue to charge and prosecute violations of criminal use of a financial card.

Legal Considerations: The City of Wichita Law Department drafted the amended ordinance and approved it as to form.

Recommendations/Actions: Declare a public emergency and adopt the ordinance making the recommended amendments to City Code section 5.42.035.

## REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE ADOPTION OF AN ORDINANCE BELOW DESIGNATED.

TO THE MEMBERS OF THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS:

I, Carlos Mayans, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the day of its introduction, to wit, June 6, 2006, of an Ordinance entitled:

AN ORDINANCE AMENDING SECTION 5.42.035 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO CRIMINAL USE OF A FINANCIAL CARD.

The general nature of such public emergency lies in the need to pass and publish this ordinance to conform with the legislative changes of K.S.A. 21-3729, the state criminal statute pertaining to criminal use of a financial card. The Kansas Legislature recently increased the jurisdictional amount of misdemeanor criminal use of a financial card. K.S.A. 21-3729, prior to legislative amendment, mandated that criminal use of a financial card was a misdemeanor offense if the property, services, money, goods, or communications services obtained, had a value of under \$500, within a seven-day period. The amendments to K.S.A. 21-3729 have now increased the jurisdiction of a misdemeanor offense of criminal use of a financial card, if the property, services, money, goods, or communications services obtained have a value of under \$1,000, within a seven-day period. City ordinance, 5.42.035 must be amended to comply with the jurisdictional mandate of state law.

It is therefore expedient at this time that the City Council find and determine that a public emergency exists by reason of the foregoing and that the above entitled Ordinance be finally adopted on the day of its introduction.

Executed at Wichita, Kansas on this 6th day of June, 2006.

MAYOR OF THE CITY OF WICHITA, KANSAS

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, City Attorney

ORDINANCE

AN ORDINANCE AMENDING SECTION 5.42.035 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO UNLAWFUL USE OF A FINANCIAL CARD.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. 5.42.035 of the Code of the City of Wichita, Kansas, shall read as follows:

(1) Criminal use of a financial card is any of the following acts done with intent to defraud and for the purpose of obtaining money, goods, property, services or communication services.

(a) Using a financial card without the consent of the card holder; or

(b) Knowingly using a financial card, or the number or description thereof, which has been revoked or canceled; or

(c) Using a falsified, mutilated, altered or nonexistent financial card or a number or description thereof.

(2) For the purposes of this section:

(a) "Financial Card" means an identification card, plate, instrument, device, or number issued by a business organization authorizing the card holder to purchase, lease, or otherwise obtain money, goods, property, services or communication services or to conduct other financial transactions.

(b) "Card holder" means the person or entity to whom or for whose benefit a financial card is issued.

(c) For the purposes of subsection (1)(b) hereof, a financial card shall be deemed canceled or revoked when notice in writing thereof has been received by the named holder thereof as shown on such financial card or by the records of the company.

(3) Penalty. Criminal use of a financial card is a misdemeanor if the money, goods, property, services or communication services obtained within a seven-day period are of the value of less than one thousand dollars. Any person convicted of criminal use of a financial card shall be punished by a fine not to exceed two thousand five hundred dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Section 2. The original of Section 5.42.035 of the Code of the City of Wichita, Kansas, is hereby repealed.

Section 3. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper. PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Carlos Mayans, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf, Director of Law

### **Agenda Item No. 33.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. No. 06-0596

TO: Mayor and City Council

SUBJECT: ZON2005-00058 – Zone change from “TF-3” Two-family Residential to “NO” Neighborhood Office. Generally located west of Oliver Avenue at the northeast corner of Central and Crestway Avenues. (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-consent)

MAPC Recommendations: Denied (5-5) at May 4, 2006 meeting.  
Denied (6-5) at February 2, 2006 meeting.

MAPD Staff Recommendations: Denied.

DAB Recommendations: Denied (7-1).

Background: The applicants are requesting “NO” Neighborhood Office zoning on a platted 0.22-acre site, which is currently zoned “TF-3” Two-family Residential. The site is located on the northeast corner of Central and Crestway Avenue. The site’s current structure appears to be what was originally a single-family residence (approximately 1,428-square feet, single-story, wood lap siding, built in the late 1920s) facing Central with a detached single car garage in the back. Access to the garage is off of Crestway. There is a paved alley (which is blocked off by a fence located east of the site) abutting the back of the site by the garage with a graveled area abutting the east side of the garage. There is a six-foot wooden privacy fence around the back yard of the site. The applicants propose to convert this residential structure into an office. It appears the applicants have already begun the conversion and have a sign posted in the front yard advertising the business. The applicants were advised that the Unified Zoning Code (UZC, Art.IV, Sec. IV-E) permitted the proposed business as a “home occupation, office facilities.” The applicants have stated that the office will be operating without an occupant on the site, thus canceling any possible “home occupation” status. They also want a larger on-site sign than what was permitted for a home occupation. Staff advised the applicants that a variance could be applied for, in regards to the sign they wanted and that is currently on site, if the office was operated as a “home occupation”.



“TF-3” zoned lots that have been developed as duplexes are east of the site, extending up to where the block ends at Terrace Drive. The next block east of the site is zoned “TF-3” and “MF-20” Multifamily Residential and is developed with duplexes and four-plexes with the exception of the eastern most corner property being zoned “GO” General Office. This “GO” zoned property is almost two blocks away and is the nearest nonresidential zoning on the north side of Central. The “GO” zoned property is also the western most extension of the commercial (“LC” Limited Commercial) zoning located around the Central and Oliver Avenue intersection, specifically on the north side of Central. South of the site, and across Central Avenue, properties are zoned “TF-3” and “SF-5” Single-family Residential with development being overwhelming single-family residential. There is “LC” zoning almost two blocks east of the site on the south side of Central. Similar to the previously mentioned “GO” zoning, it is the western most extension of the commercial (“LC”) zoning around the Central and Oliver Avenue intersection. “TF-3” zoning and a mixture of mostly single-family residences and some duplexes are located west, across Crestway Avenue, from the site. The nearest commercial/office zoning west of the site is seven blocks away. “TF-3” zoning and a mixture of mostly single-family residences and a few scattered duplexes are located north of the site.

Analysis: The Metropolitan Area Planning Commission (MAPC) heard this request at their February 2, 2006 meeting. The MAPC recommended denial (6-5) citing the findings found in the staff report. One property owner spoke in opposition citing concerns with increased traffic and the impact it would have on their shared driveway with the applicant. Staff received no written protest to the request. District Advisory Board I (DAB I) reviewed this request at their March 6, 2006 meeting. One person spoke against the request at the DAB meeting. DAB I recommended denial (7-1).

The Wichita City Council heard this request at their April 4, 2006 meeting and recommended (unanimously) that the request be returned to the MAPC for reconsideration. The MAPC reconsidered this request at their May 4, 2006 meeting and recommended denial (5-5). A tie vote is deemed to be a recommendation of disapproval. There are findings in the staff report to support denial. No one spoke against the request at the MAPC meeting.

Financial Considerations: None.

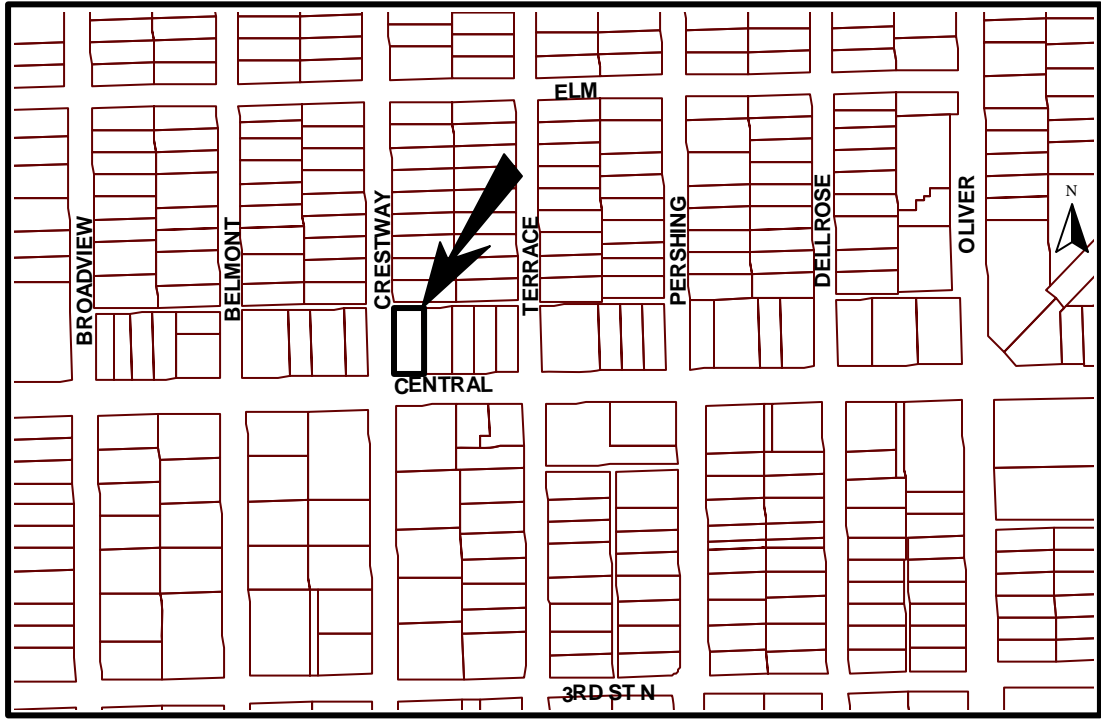
Goal Impact: Promote Economic Vitality and Affordable Living.

Legal Considerations: Should the City Council approve the request an ordinance will be prepared reflecting the Council’s direction.

Recommendation/Actions:

1. Concur with the Metropolitan Planning Commission and deny the application; or
2. Take appropriate action, stating reasons.

(The Council may adopt or revise the recommendation of the Metropolitan Planning Commission by a majority vote)



## **Agenda Item No. 34.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0597

TO: Mayor and City Council

SUBJECT: ZON2006-00014 – Zone change from “LI” Limited Industrial to “GI” General Industrial for ready mix concrete and asphalt production facilities. Generally located 500 feet south of Tulsa, 500 feet east of Hydraulic, and west of I-135. (District III)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

MAPC Recommendations: Approve, subject to re-platting with no Protective Overlay (11-0).

MAPD Staff Recommendations: Approve, subject to re-platting and a Protective Overlay.

DAB Recommendations: Approve, subject to staff recommendations. (8-2).

Background: The application area consists of undeveloped 18.21 acres and a portion of two platted lots that is generally located 500 feet south of Tulsa, 500 feet east of Hydraulic and west of I-135. The contract purchaser wishes to develop the site with ready mix concrete and asphalt production facilities. The contract purchaser owns “LI” zoned property north of this site, which is used for similar production.

All property surrounding the site is zoned “LI” and is vacant or developed with industrial uses. Across Hydraulic, 500 feet west of the site, is “LC” Limited Commercial and “MF-29” Multi-family Residential zoned property, developed with a church, a retail use, a postal facility and single-family residences.

Analysis: DAB III heard this request on April 18, 2006. Both DAB members and citizens raised concerns of permitted uses under “GI” zoning, environmental and dust issues and offers to donate land to the City for a fire station. The DAB recommended approval of the request, subject to staff recommendations, including a Protective Overlay, by a vote of 8-2. Conditions of the Protective Overlay include: landscape buffering along I-135, limiting the site to one plant located at least 850 feet from Hydraulic and limiting access to the site from Tulsa Street (no direct access from Hydraulic would be permitted). MAPC heard this request on April 20, 2006 and no citizens spoke in opposition to the zone change request. The action of the MAPC was to approve the request without the staff recommended Protective Overlay by a vote of 11-0.

Financial Considerations: None.

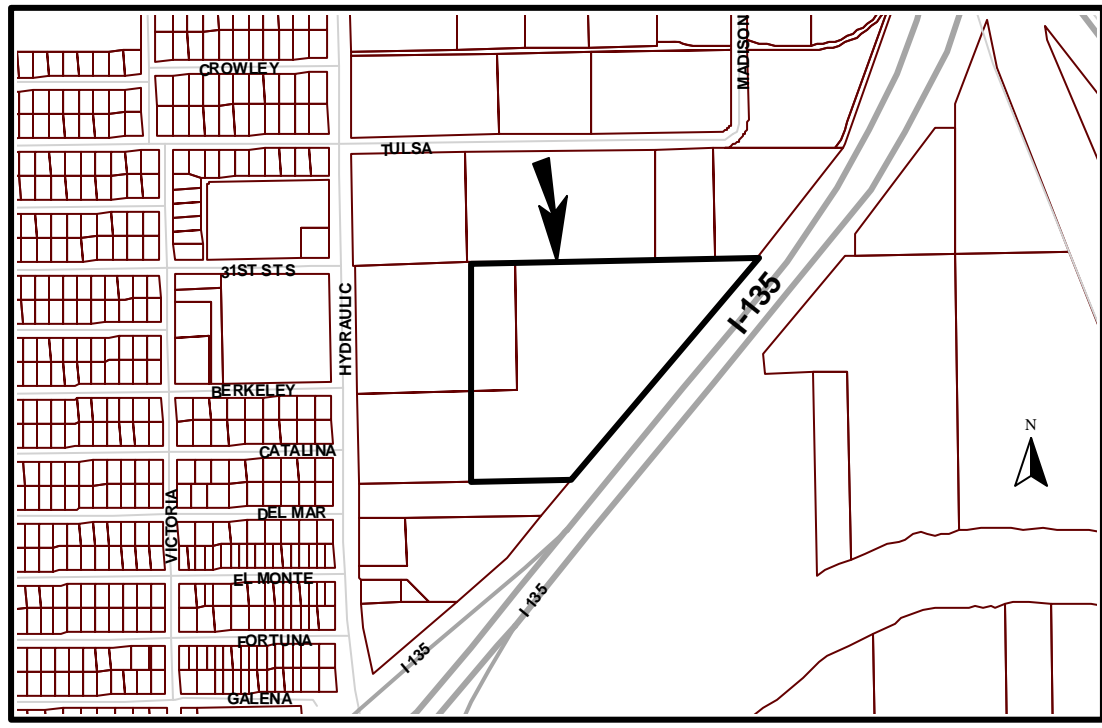
Goal Impact: Promote Economic Vitality and Affordable Living.

Legal Considerations: The Ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Adopt the findings of the MAPC, approve the zone change subject to re-platting within one year; instruct planning staff to forward the ordinance for first reading when the plat is forwarded to the City Council, instruct staff to withhold publication until the plat is recorded; or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)



## **Agenda Item No. 35.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0598

TO: Mayor and City Council Members

SUBJECT: SUB 2005-133 -- Plat of Sycamore Pond Addition, Located South of 47th Street South and on the East Side of Seneca. (District IV)

INITIATED BY: Metropolitan Area Planning Department

AGENDA Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (9-0)

Background: This site, consisting of 104 lots on 37.4 acres, is a replat of a portion of Angel Acres 2nd Addition. This site is zoned SF-5, Single-family Residential District.

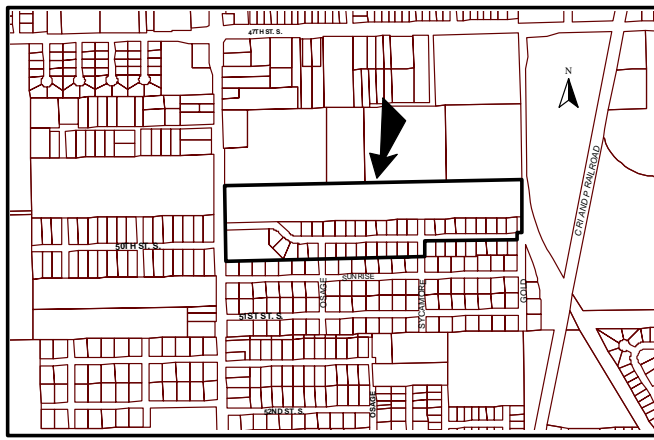
Analysis: Petitions, 100%, and a Certificate of Petitions have been submitted for sewer, drainage, paving and water line improvements. Restrictive Covenants were submitted to establish a Lot Owner's homeowner's association to provide for the ownership and maintenance of the proposed reserves and to provide four off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

Goal Impact: Ensure Efficient Infrastructure.

Legal Considerations: The Certificate of Petitions and Restrictive Covenants will be recorded with the Register of Deeds.

Recommendations/Actions: Approve documents and plat, authorize the necessary signatures, and adopt the Resolutions.



## **Agenda Item No. 36.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0599

TO: Mayor and City Council Members

SUBJECT: SUB 2006-04 -- Plat of North Sanitary Sewer Addition,  
Located West of Meridian and South of 53rd Street North.  
(District VI)

INITIATED BY: Metropolitan Area Planning Department

AGENDA Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (9-0)

Background: This site, consisting of one lot on .92 acres, is located within Wichita's city limits. The site is zoned SF-5, Single Family Residential District.

Analysis: Municipal services are available to serve the site.

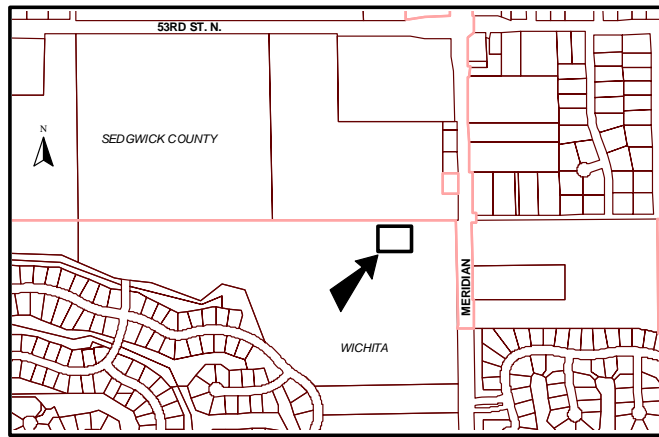
This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

Goal Impact: Ensure efficient infrastructure.

Financial Considerations: None identified.

Legal Considerations: None identified.

Recommendations/Actions: It is recommended that the City Council approve the plat and authorize the necessary signatures.





## **Agenda Item No. 37.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0600

TO: Mayor and City Council Members

SUBJECT: DED 2006-13 -- Dedication of a Utility Easement, Located North of Douglas and West of West Street. (District IV)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Accept the Dedication.

Background: This Dedication is associated with a lot split case (SUB 2006-36). The Dedication is for construction and maintenance of public utilities.

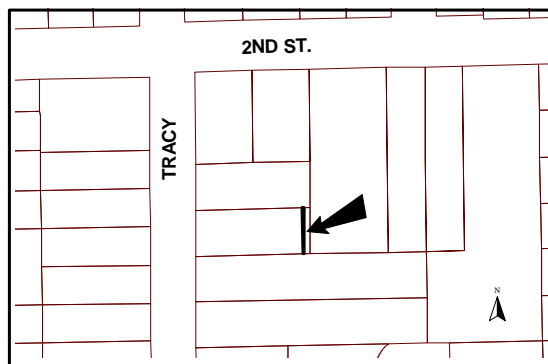
Analysis: None.

Goal Impact: Ensure Efficient Infrastructure.

Financial Considerations: None.

Legal Considerations: The Dedication will be recorded with the Register of Deeds.

Recommendations/Actions: It is recommended that the City Council accept the Dedication.



## **Agenda Item No. 38.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0601

TO: Mayor and City Council

SUBJECT: VAC2006-00021 Request to vacate a platted utility easement, generally located east of Rock Road and north of Kellogg Avenue. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The applicant is requesting vacation of the platted 10-foot utility easement located on Lot 1, the McDonald's First Addition. The recent expansion of Kellogg Avenue has reconfigured and reduced the size of all those properties (including the subject site) abutting this portion on the north side of the Kellogg right-of-way (ROW). The expansion has also relocated utilities located on those properties. There are no utilities, manholes, sewer or water lines in the platted utility easement. The McDonald's First Addition was recorded with the Register of Deeds on May 13, 1984.

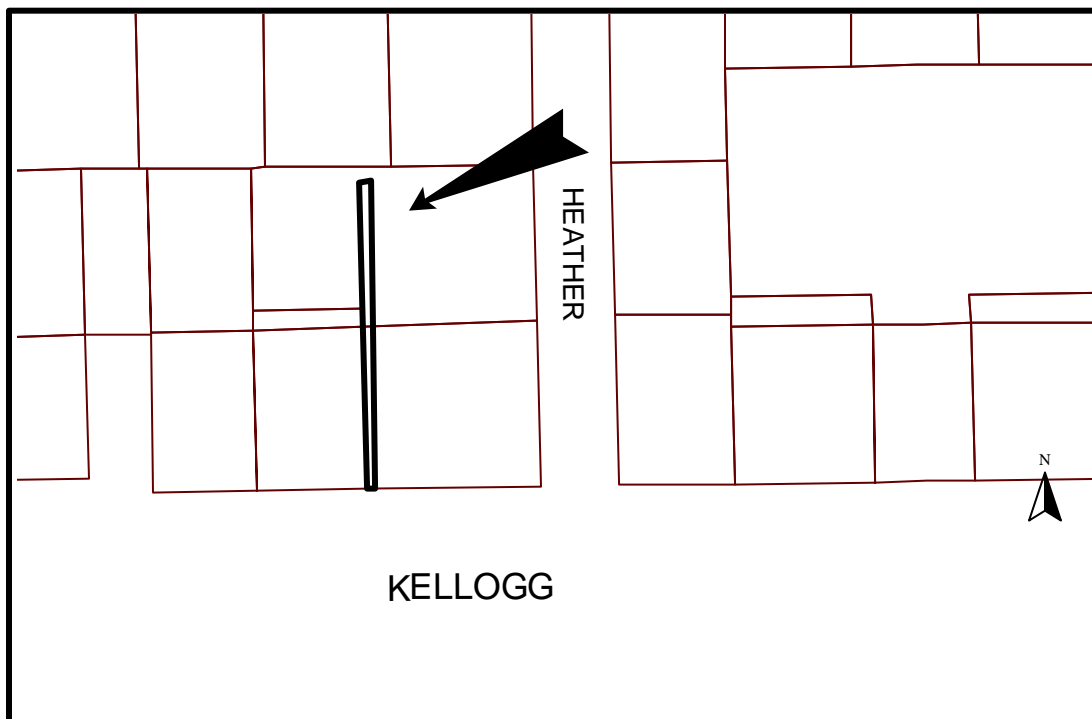
Analysis: The MAPC voted (11-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Legal Considerations: A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Financial Considerations: None.

Goal Impact: Ensure efficient infrastructure

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.



## **Agenda Item No. 39.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0602

TO: Mayor and City Council

SUBJECT: ZON2006-19 (Associated with CON2006-17) Zone change from SF-5 Single-family Residential to LC Limited Commercial and a Conditional Use to allow a car wash within 200 feet of a residential zoning district. Generally located at the southeast corner of West Maple Street and South Illinois Avenue. (District IV)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (consent)

MAPC Recommendation: Approve, (11-0) subject to staff recommendations except the following: (1) Change condition "C" of the Conditional Use to "All proposed lighting shall comply with Art. IV, Sec. IV-B.4 of the UZC. Plus, no proposed pole lights (including base, standard, and fixtures) shall be taller than 14 feet south of the vacuum stations." (2) Change condition "D" of the Conditional Use to "The site shall comply with all provisions of the Landscape Ordinance and the applicant shall submit a landscape plan for approval by the Planning Director, which shall include evergreens planted every 15 feet in the south landscape buffer between Lot 20 and Lot 22, Block 3, Quincy Addition."

Staff Recommendation: Approve, subject to replatting within one-year and conditions.

D.A.B. Recommendation: Approve, (8-0) subject to staff recommendations and adding the following as condition "H" of the Conditional Use: "The applicant shall provide a security gate at the main drive, which shall be locked when the facility is closed for business."

Background: The applicant is requesting a zone change from SF-5 Single-family Residential to LC Limited Commercial and a conditional use to allow a 24-hour car wash to be located within 200 feet of residential zoning in the LC Limited Commercial zoning district. The approximately one acre site is located on the southeast corner of the intersection of West Maple Street and South Illinois Avenue, one block east of West Street. The site is currently zoned LC Limited Commercial on the north nine lots and SF-5 Single-family Residential on the south four lots. The north nine lots (LC) are currently vacant, but appear to have been used as a parking lot at some point in the past. The two center lots (SF-5) are vacant and the two southernmost lots (SF-5) are developed with one single-family residence. Quik Trip

Corporation, owner of the property immediately west of Illinois Avenue from the subject property, is proposing the car wash as an ancillary use to their existing convenience store.

A mix of commercial and industrial zoning with predominately neighborhood retail/commercial uses typifies the land use pattern along the West Street and Maple Avenue frontages. Single-family zoning and development interspersed with multi-family and two-family zoning and development characterizes the area south of Maple Avenue between West Street and Friends University. Immediately across Maple Avenue from the subject property is developed with a small strip retail center, which includes hair salon and automotive services. Immediately east of the subject property is a small neighborhood bar/drinking establishment. Southeast of the site is a small pocket of multi-family use zoned MF-29 Multi-family Residential. A single-family residence zoned SF-5 abuts the site to the south.

The applicant has submitted a site plan that illustrates three major changes to the existing site that will require replatting as a remedy. First, two existing points of access onto Maple Avenue will be closed and replaced with one large drive onto Illinois Avenue. This will include dedication of complete access control on Maple Avenue. Second, the site plan shows the closing of the existing alley between the north nine lots and four south lots. Third, the existing setback along Maple Avenue is being reduced from 20 feet, as required by the Unified Zoning Code (UZC), to 15 feet. Also at platting, the applicant will be asked to dedicate right-of way on the northern 20 feet of Lot 4, which fronts on Maple Avenue, to match the existing right-of-way along the rest of the subject property.

Analysis: At the DAB IV hearing on May 3, 2006, the DAB voted (8-0) to recommend approval of the zoning change and the Conditional Use, subject to replatting within one year and subject to the conditions recommended by staff and adding the following as condition "H" of the Conditional Use: "The applicant shall provide a security gate at the main drive, which shall be locked when the facility is closed for business."

At the MAPC hearing on May 4, 2006, the MAPC voted (11-0) to recommend approval of the zoning change and the Conditional Use, subject to replatting within one year and subject to conditions recommended by staff, except: (1) Change condition "C" of the Conditional Use to "All proposed lighting shall comply with Art. IV, Sec. IV-B.4 of the UZC. Plus, no proposed pole lights (including base, standard, and fixtures) shall be taller than 14 feet south of the vacuum stations." (2) Change condition "D" of the Conditional Use to "The site shall comply with all provisions of the Landscape Ordinance and the applicant shall submit a landscape plan for approval by the Planning Director, which shall include evergreens planted every 15 feet in the south landscape buffer between Lot 20 and Lot 22, Block 3, Quincy Addition." The original staff recommendation for condition "C" was to prohibit lighting taller than 14 feet throughout the site and for condition "D" was to use evergreens, rather than shade trees. The conditions of approval recommended by the MAPC are:

- A. The car wash shall be developed according to the site plan and maintained in compliance with all the requirements of Section III-D.6.f of the UZC regarding supplementary use regulations for car washes.
- B. The site shall comply with all provisions of Section IV-C of the UZC, pertaining to compatibility standards.

C. All proposed lighting shall comply with Art. IV, Sec. IV-B.4 of the UZC. Plus, no proposed pole lights (including base, standard, and fixtures) shall be taller than 14 feet south of the vacuum stations.

D. The site shall comply with all provisions of the Landscape Ordinance and the applicant shall submit a landscape plan for approval by the Planning Director, which shall include shade trees planted every 15 feet in the south landscape buffer between Lot 20 and Lot 22, Block 3, Quincy Addition.

E. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.

F. At platting, the applicant shall dedicate complete access control to Maple Street and shall dedicate 20 feet of right-of-way to Maple Street from Lot 4, Block 3, Quincy Addition.

G. After a review of the development and upon appropriate findings, any violation of the conditions of approval will allow the Conditional Use to be declared null and void.

Financial Considerations: None

Goal Impact: Promote Economic Vitality and Affordable Living

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendations/Actions:

1. Adopt the findings of the MAPC and approve the zoning change and the Conditional Use to permit a car wash, subject to replatting within one year and subject to the recommended conditions; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to the City Council; or

2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a 2/3-majority vote of the membership of the governing body on the first consideration.)

## **Agenda Item No. 40.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0603

TO: Mayor and City Council Members

SUBJECT: CUP2005-00009 (DP-282) and ZON2005-00006 – Extension of time to complete the platting requirement for the Foliage Commercial Community Unit Plan and a zone change from “SF-5” Single-Family to “LC” Limited Commercial. Generally located north of 13th Street and west of Webb Rd. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Approve extended platting deadline of May 3, 2009.

Background: On May 3, 2005, the City Council approved the creation of DP-282 Foliage Commercial CUP and a zone change from “SF-5” Single-Family to “LC” Limited Commercial on approximately 7.14 acres generally located north of 13th Street and west of Webb Rd. Approval of the request was subject to the condition of platting the property within one year. As the attached letter indicates, the applicant is not ready to develop or begin platting. The applicant requests a three year platting extension to May 3, 2009.

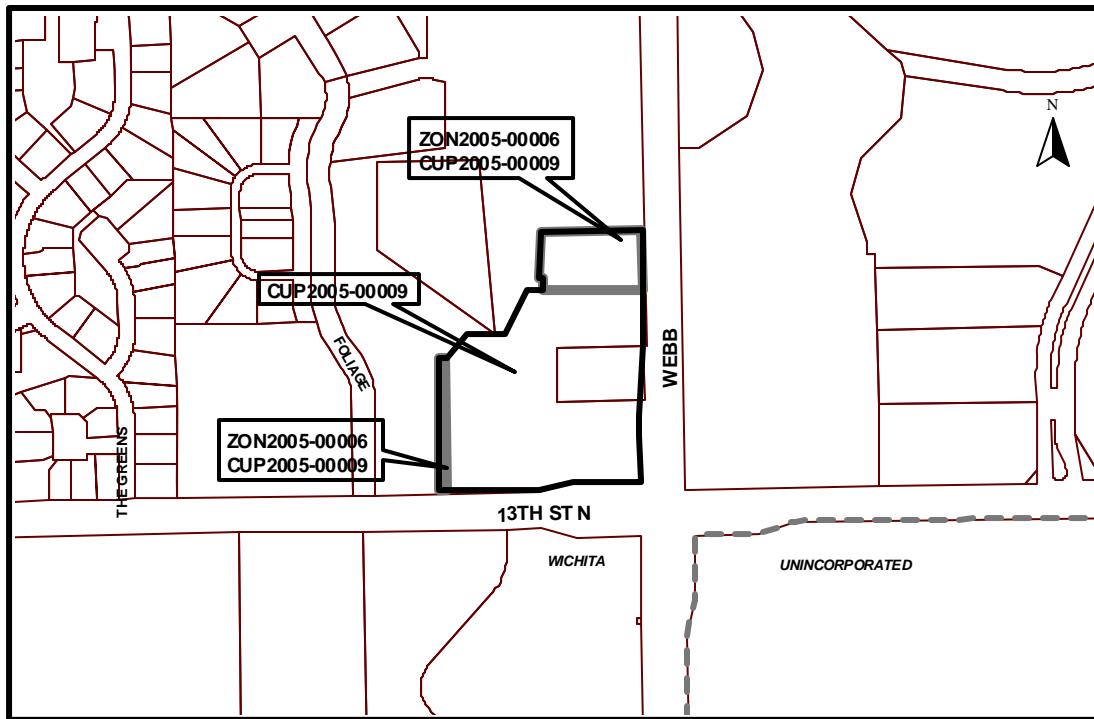
Analysis: Staff recommends that an extension of time to complete platting requirements be granted. The City Council may deny the request for an extension of time to complete platting; however, denying the extension would declare the CUP and zone change null and void and would require reapplication and rehearing if the property owner still desired a CUP and zone change.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality and Affordable Living.

Legal Considerations: No legal documents are required to enact the granting of the platting extension. The granting of a platting extension is indicated via letter to the applicant noting the extended platting deadline as granted by the City Council.

Recommendations/Actions: Approve extended platting deadline of May 3, 2009.





## **Agenda Item No. 41.**

City of Wichita

City Council Meeting

June 6, 2006

Agenda Report No. 06-0606

TO: Mayor and City Council

SUBJECT: CUP2006-06 Associated with ZON2006-07 – Create DP-295 Stonebridge Community Unit Plan; zone change to “LC” Limited Commercial. Generally located at the southeast corner of 37th Street North and Maize Road. (District V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendations: Approve, subject to staff conditions, vote (11-0).

MAPD Staff Recommendations: Approve, subject to conditions.

DAB Recommendations: Approve subject to MAPC conditions (8-0).

Background: The applicant proposes to create a commercial Community Unit Plan containing approximately 36 acres with 11 parcels zoned “LC” Limited Commercial for commercial development on the southeast corner of Maize Road and 37th Street North. Currently the property is zoned “SF-5” Single-family Residential.

Parcels 1-10 are parcels located along Maize Road and 37th Street North. They range in size from 0.9 acre to 2.23 acres (Parcel 1 - 1.55 acre, Parcel 2 – 1.27 acre, Parcel 3 – 1.39 acre, Parcel 4 – 1.38 acre, Parcel 5 – 2.23 acres, Parcel 6 through 9 – 0.97 acre each, Parcel 10 – 0.90 acre). Parcel 11 is the main parcel. It has 23.27 acres and is connected to Maize Road and 37th Street North with a main entrance off each street frontage. A portion of this parcel will be used for drainage/detention purposes. Most likely this will be in the area directly east of the Parcels 1-4 and along the southern edge of the tract.

Allowed uses would be those permitted by right in the LC district except: adult entertainment establishment, correctional placement residence, asphalt/concrete plant, pawn shop and storage-outdoor as a separate use. Additionally, convenience stores, service stations, auto repair, car washes, restaurants with drive-in or drive-through windows, and taverns and drinking establishments would be prohibited within the south 200 feet of Parcels 1 and 11 and within the east 150 feet of Parcels 10 and 11. Overhead doors would be prohibited within 200 feet of residential zoning and overhead doors could not be facing residential zoning. Car washes would be prohibited within 200 feet of residential zoning, and, in those areas where not prohibited, would be subject to the additional requirements of the supplementary use regulations of Sec. III-D.6.f of the Unified Zoning Code.

Outdoor storage and display is permitted on Parcel 11 as an accessory use. Screening of outdoor storage and display would be per standards for the LC Limited Commercial district, except that outdoor storage would be allowed to increase from 10 percent to 20 percent, which is the amount allowed in LC subject to a conditional use approval. The approval of this use in the CUP would be considered granting the conditional use for additional outdoor storage area, but would be subject to site plan review by the Director of Planning, with concurrence of the Zoning Administrator and Traffic Engineer, to ensure compliance with LC site design standards for outdoor storage.

Maximum building coverage and gross floor area is shown as 35 percent for Parcels 1-8, 30 percent for Parcels 9 and 10, and 27 percent for the area of Parcel 11 (not including the area used for detention). Total maximum building coverage and gross floor area for the CUP would be 30 percent. Building height is shown as 45 feet for Parcel 11 and 35 feet for Parcels 1-10. The total number of buildings is proposed as 16, with one building on each of the smaller parcels and five on Parcel 11. Building setbacks are shown as 35 feet on along Maize Road, 37th Street North and exterior property lines. Internal building setbacks on parcels are shown as 15 feet. If a parcel is developed with a building of more than 100,000 square feet of gross floor area, the building setback increases to 100 feet on the south and west property lines and 35 feet on the interior parcel boundaries.

Buildings would have uniform architectural compatibility of character, color, texture and same materials (further defined as similar to surrounding residential areas), and would use earth-tone colors predominately. Parking lots would have similar or consistent lighting elements, limited to 25 feet in height, and reduced to 15 feet in height within 100 feet of residential zoning with residential use. Parking would be per code, but allows for use of Parcels 6-10 as parking areas for Parcel 11 if needed by future development, particularly if the CUP is developed with a shopping center type of building rather than a big box type of use on the main parcel.

A six-foot masonry wall would be constructed along property abutting residential zoning. The Sedgwick County bike path is shown on the CUP as a 10-foot asphalt sidewalk. The CUP requires a site plan to provide for smooth internal flow of vehicular traffic and for pedestrian connections between buildings and with the arterial sidewalk system.

Monument signage requested slightly exceeds the amount allowed by the Wichita Sign Code, and it is recommended the overall limit on sign face area of 0.8 times linear frontage be added. The number of signs requested is 14 monument signs, 11 signs with a maximum height of 20 feet and an maximum sign face area of 150 square feet, plus three signs with a maximum height of 30 feet and maximum sign face area of 200 square feet. This is equivalent to 17 signs (signs that are 30 feet in height are counted as occupying two sign locations by the Wichita Sign Code), which is the number of signs allowable based on the linear frontage of the CUP. Spacing of 100 feet is requested only between the 30' signs and 20' signs, rather than 150 feet apart. Otherwise, the signs would be spaced 150 feet apart. Portable and off-site signs are prohibited. Window displays would be limited to 25 percent of window area and signs on the rear would be prohibited.

The property currently is zoned SF-5 and is in agricultural use. The property to the east and south is owned by USD#266 Maize School District. A portion of the 280 acres is developed with Maize South Middle School and the remaining land is being held for future school development. The property to the west of Maize Road is in large lot residential use or agricultural use, but has been platted and is being zoned for commercial use. A 25-acre tract on the northwest corner of Maize and 37th Street North is zoned LC and approved for commercial development (DP-262 37th & Maize Commercial CUP), but is currently undeveloped. The property to the north of 37th Street is located in the city of Maize. An eight-acre tract is being developed with an institutional use (Wichita State University) and approximately 25 acres is available for commercial use.

Analysis: At the District V Advisory Board meeting held May 1, 2006, the board voted (8-0) to approve subject to the MAPC recommendation. A question was asked if agreements were in place for improvements and maintenance of 37th Street North and Maize since the jurisdiction is split between Wichita and Maize. The responsibility has been determined by an agreement between the two jurisdictions.

At the MAPC meeting held April 20, 2006, they voted (11-0) to approve subject to staff recommendation. No citizens were present to speak on the proposal. No protests have been received.

The recommendation is that the application be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2006-07) to LC Limited Commercial subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-295), subject to the following conditions:
  - 1. The applicant shall guarantee center left turn lanes and right-turn decel lanes to all full movement approaches at time of platting.
  - 2. Add to General Provision 4: (not including metal as a predominant exterior façade material).

3. Add General Provision 10K: The total amount of sign face area of freestanding signage along each arterial street shall not exceed 0.8 times the linear frontage.
4. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
5. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
6. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
7. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-295) includes special conditions for development on this property.
8. The applicant shall submit 4 revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

Financial Considerations: None.

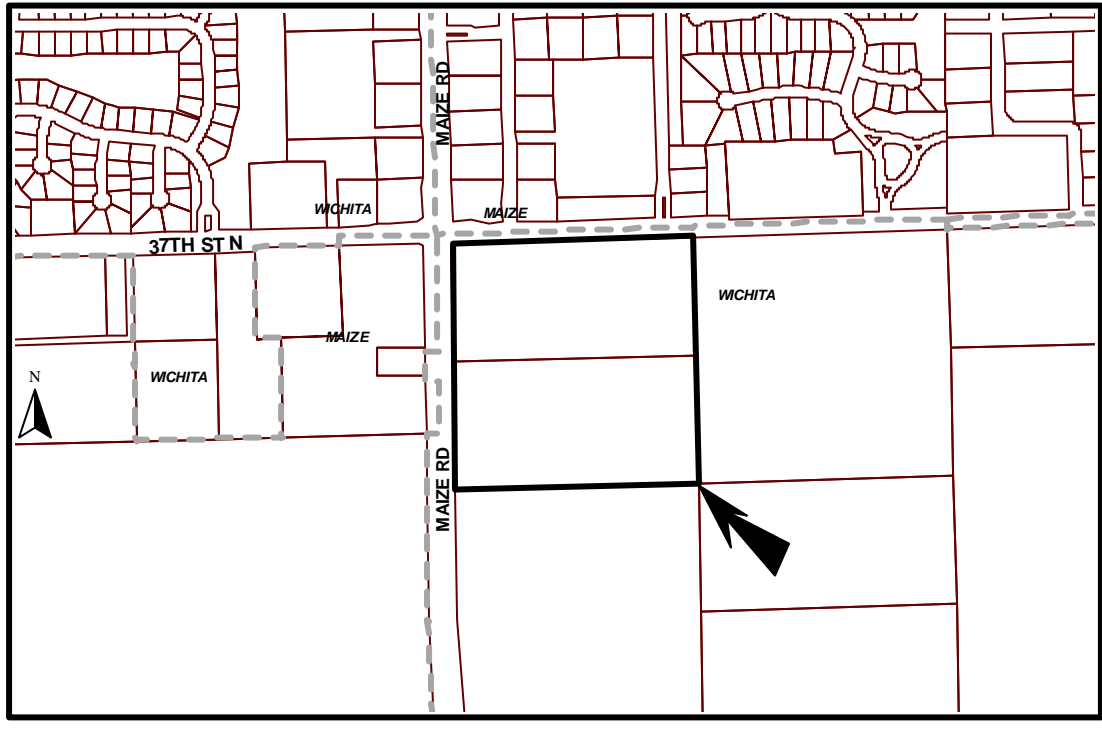
Goal Impact: Promote Economic Vitality and Affordable Living.

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the zone change subject to platting within one year and approve the CUP; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to City Council; or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)



## **Agenda Item No. 42.**

CITY OF WICHITA  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0605

TO: Wichita Airport Authority

SUBJECT: Relocation Associated with the Acquisition of 4700 North Webb Road for  
Runway Approach Protection Colonel James Jabara Airport

INITIATED BY: Office of Property Management

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the payment.

Background: The Wichita Airport Authority acquired the residence at 4700 North Webb Road along with approximately 78 acres via eminent domain because a portion of the property lies within the runway protection zone and the runway approach protection zone for Colonel James Jabara Airport. This tract was acquired to prevent incompatible development in the protected area. Because monies from the Federal Aviation Administration were utilized in the purchase, the prior owner is eligible for reimbursement of certain relocation costs.

Analysis: Pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act, the prior owner is eligible for reimbursement for moving costs, costs associated with acquiring a replacement dwelling and a housing price differential payment. Based on the actual costs of the relocation, these amounts are \$2,500.00 for moving, \$849.50 for closing costs, and \$54,500.00 for the housing price differential, resulting in a total payment of \$57,849.50.

Financial Considerations: The payment will be funded with General Obligation Bonds paid by airport revenues. A budget increase in the amount of the payment is requested.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted by acquisition of land that provides sufficient runway protection.

Legal Considerations: The Law Department has reviewed the settlement and approved the Authorizing Resolution as to legal form.

Recommendation/Action: It is recommended that the Wichita Airport Authority approve the payment and budget, and adopt the resolution.

Attachment: Resolution.

## RESOLUTION

AN RESOLUTION DECLARING THAT A PUBLIC NECESSITY EXISTS FOR, AND THAT THE PUBLIC SAFETY, SERVICE AND WELFARE WILL BE ADVANCED BY, THE AUTHORIZATION OF CERTAIN CAPITAL IMPROVEMENTS TO THE COLONEL JAMES JABARA AIRPORT FACILITY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS; THE ESTIMATED COSTS THEREOF; AND THE MANNER OF PAYMENT OF SAME.

WHEREAS, K.S.A. 3-114 provides that an airport authority established pursuant to K.S.A. 3-162 shall have the power to equip, improve and maintain an airport and

WHEREAS, K.S.A. 13-1348a provides that a city having an airport authority established pursuant to K.S.A. 3-162 is authorized to issue general obligation bonds for the purpose of purchasing land for airport purchases or for the construction, enlargement, reconstruction, repair or addition to or of any improvements to any such lands.

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That a public necessity exists for, and that the public safety, service and welfare will be advanced by, the authorization of certain capital improvements, specifically, Land Acquisition – Jabara Airport (4700 N. Webb Road) to the Wichita Mid-Continent Airport facility operated by the Wichita Airport Authority of the City of Wichita, Kansas.

SECTION 2. That the cost of the above described improvements is estimated to be One Million Three Hundred Thirteen Thousand Nine Hundred and Sixty-one Dollars (\$1,313,961), exclusive of the cost of interest on borrowed money paid by the Wichita Airport Authority of the City of Wichita. Said Wichita Airport Authority cost, shall be financed through the issuance of general obligation bonds under the authority of K.S.A. 13-1348a, as amended by Charter Ordinance No. 78 of the City of Wichita, Kansas.

SECTION 3. That the above described improvements shall be made in accordance with the Plans and Specifications prepared under the direction of the Director of Engineering and Planning of the Wichita Airport Authority of the City of Wichita, Kansas and approved by the governing body of the City of Wichita, Kansas. Said plans and specifications are to be placed on file in the office of the Director of Engineering and Planning located at Wichita Mid-Continent Airport.

SECTION 4. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

ADOPTED at Wichita, Kansas, \_\_\_\_\_,\_\_\_\_\_.

CARLOS MAYANS, MAYOR

ATTEST:

KAREN SCHOFIELD, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

GARY REBENSTORF, DIRECTOR OF LAW



## **Agenda Item No. 43.**

City of Wichita  
City Council Meeting  
June 6, 2006

Agenda Report No. 06-0606

TO: Wichita Airport Authority

SUBJECT: Mechanical Systems Improvements  
Wichita Mid-Continent Airport

INITIATED BY: Airport Department

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the Change Order.

Background: On October 18, 2005 the Wichita Airport Authority approved a contract with Don Vaughn Inc. for mechanical system improvements to the FAA office building located at 1801 Airport Road and a multi-tenant facility located at 2120 Airport Road on Wichita Mid-Continent Airport.

Analysis: During construction changes to the project have been identified.

Financial Considerations: The change order amount of \$849 will be funded with General Obligation bonds paid for with Airport Revenue. Funds are available within the approved budget and the changes are approximately five-percent of the original contract amount. The revised contract amount is \$137,635.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through maintaining its facilities so as to ascertain that they are in leasable condition.

Legal Considerations: The Law Department has approved the change order.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the change order and authorize necessary signatures.

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